



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MA 01545-5398

May 9, 2006

PUBLIC HEARING: Christine and Guy Wills, 21 Sterling Street, Shrewsbury, MA

PURPOSE: To hear the appeal of Christine and Guy Wills, 21 Sterling Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition 4 ft. from the sideline of Acorn Street upon property located at 21 Sterling Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 39 as Plot 71.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon,, Alfred C. Confalone and Dale W. Schaetzke.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Mr. Rosen: Please identify yourself for the record and make your presentation.

Mr. Wills: Good evening. First, it's Wills, W I L L S. I have some packets here. I only have three so who should get them?

Mr. Gordon: The chairman.

Mr. Rosen: Spread them around.

(Mr. Wills presented the materials to the board members.)

Mr. Wills: They're kind of pictures and also some paper work that you already have and a larger plot plan. Okay, as I filed, the reason for the garage is, as most people, I want to put my vehicles in a garage. I have a pickup truck, three motorcycles and a car. Right now they're in a driveway and it's kind of crowded. I do maintenance on my own vehicles which makes it difficult in the driveway on me. It might bother the neighbors some too because I can get kind of heavy in the work.

The garage that I'd like to put up would end up being 4 ft. from Acorn Street. In the pictures that I have picture number one shows where the closest corner would be to Acorn Street. Beyond that point is a lot of trees and stuff. I think that the most use that Acorn Street gets is from the pay loader that clears the snow. Other than that, the only cars you see are generally cars that made a wrong turn and they cut across and get up that

way. I believe that there's only one house that's actually on Acorn Street. I don't know what number it is but there's just one house on Acorn.

Picture number two that I have is taken from the corner marker at Acorn and Sterling Street and kind of down the property line. That shows the street as being kind of treed in that area.

Picture number three is from Acorn Street looking into where the corner of the garage would be. There's a person there holding a white pole. That's about 20 ft. from the start of the grass there that's in the road to where he's standing, which is 4 ft. in on the property. Picture number four is the same picture just zoomed in to show you the person standing there.

To put the garage further back on our property we'll lose the breezeway that we want to build to connect it to the home. Losing the breezeway, we also want to heat the garage. To heat, I'm using radiant floor heat. I couldn't see going 20 ft. if I brought it back further because the way that the garage is positioned on an angle we can use our windows on the west side of the home. If we straighten that out it would block the windows. So, if we moved it back further on our property we'd be talking 20 ft. from the home which would start to make a burden on trying to heat it, electrical would be more expensive and we wouldn't have a breezeway. We would like a breezeway so that we can get out of the car and not walk in the rain and the snow.

The finished garage, you also have there an estimate on what it will cost to build it. It shows what our intention is; it's to build a garage to look just like the house, the same siding, the same roof, everything like that. It will just be one story versus two stories. We plan on building a nice garage that will enhance our property and the neighborhood. We've done past improvements on our home. I think that they've all enhanced what we had to start out with. Our intentions are all with Shrewsbury code. If they don't meet code they will be changed to meet code. I'm not trying to do anything cheap to do it or anything like that. I'm trying to build a good structure in a good way. If we could build it like I say, 4 ft., it would work perfectly.

I could even angle it a little bit more and go 5 or 6 ft. but then I can't get my truck into the far bay. That would be a problem there. I really don't want to go out on Acorn Street because it's kind of a rough road. It's not that smooth.

Mr. Rosen: So, the driveway is going to come in from Sterling?

Mr. Wills: Yes, from Sterling. That's where my driveway is now.

Mr. Rosen: Okay.

Mr. Wills: Also, when I pull out of my driveway now it's usually pretty unsafe. I've got to back out where as with the garage we can pull out forward and just go out into the street in a safer manner than backing out.

Mr. Rosen: Are there any questions?

Mr. George: I've got a question.

Mr. Wills: Okay.

Mr. George: Is there any way of positioning this garage back more and tying the breezeway in further back in the house? What part of the house is the breezeway tying into?

Mr. Wills: It's tying into a kitchen.

Mr. George: A kitchen.

Mr. Wills: If I brought it back further there's a bedroom in the next room.

Mr. Confalone: What I was wondering, along the same lines as Paul's question, if you pull that garage back and you made it so that it was parallel to the house and then put the breezeway between them, why can't you do that?

Mr. Wills: That way, squaring it up with the house?

Mr. Confalone: Right, square it up with the house with a breezeway.

Mr. Wills: We'd lose windows that we have along side there. The windows would be 6 ft. from the wall of the building. The whole house is 36 ft. and the garage is 30 ft. deep. So, all the windows, there are four windows along that side of the house, would have a wall 6 ft. from them. It would kind of negate the windows.

Mr. Confalone: That's what I'm kind of wondering. Is that your hardship, you don't want to look out and see the garage? I think if you did that you'd prevent yourself from needing a variance, would you not?

Mr. Rosen: No, because he would still need a front yard because it's on Acorn Street.

Mr. Confalone: So, either way he needs a variance?

Mr. Rosen: Yes.

Mr. Gordon: Mr. Chairman, I just have a couple of questions.

Mr. Rosen: Sure.

Mr. Gordon: Acorn is a private street but it's a 40 ft. right-of-way. Where is the 40 ft. from your property? Where is the right-of-way?

Mr. Wills: It starts at my property line, right?

Mr. Gordon: Yes, but what I don't understand is from behind your lot the road, I guess, goes the whole right-of-way. You can't tell what a right-of-way is because it goes beyond the roadway. On the side of your house, or the front of your house there, it looks

like you have more like 20 something feet. The bushes and the trees there, are they in the right-of-way?

Mr. Wills: I believe so. I think that they've grown that way.

Mr. Gordon: Okay. Now, the stuff and the shed that you have there now, they're on your property?

Mr. Wills: The shed?

Mr. Gordon: Well, it's part of a fence, not a shed, and there's some stuff.

Mr. Wills: Yes, that's my property line there.

Mr. Gordon: That is your property line right there?

Mr. Wills: Yes.

Mr. Gordon: So, you'd be coming out to that?

Mr. Wills: Four feet short of that.

Mr. Gordon: Four feet short of that, okay. Do you have a certified plot plan?

Mr. Wills: Just the town plot plan.

Mr. Gordon: If we did find that you do have a hardship, and I understand that you do have a hardship and I understand that this is a lot that probably came before zoning because it's undersized, would you be willing to get a certified plot plan before Mr. Alarie gave you a building permit?

Mr. Wills: What do you mean, a survey, survey the land? Yes.

Mr. Gordon: I think one day we should find out where the street is. I agree with you; not many people will venture down there. I did venture down there but not many people will venture down there more than once. Just to carry what Fred said, why can't you accomplish this by taking your garage and having the door face Sterling Street and be behind the house like it is here except pull the hypotenuse down? I mean to the 4 ft. If you pulled it down to the 4 ft. so that it was 4 ft. all the way back.

Mr. Wills: Oh, run it along the property line 4 ft. away?

Mr. Gordon: Four feet away. Wouldn't that be easier because you're talking about the difficulty of getting your truck in?

Mr. Wills: Yes, it would make it easier for the truck but to the door on the left closest to the house, because it would be a two-door garage, that door would be about 8 ft. Four feet of the door would be at the houseline.

Mr. Gordon: Yes.

Mr. Wills: So, there would be a heavy cut to get that in there.

Mr. Gordon: I'm saying put it so that the front of the garage was at the rear end of the house and it was actually parallel to the house. Why wouldn't that be a better situation?

Mr. Wills: I think that it just crowds that left side door. That's why I went on the angle to give a little bit better to turn in. I don't know; it might be better.

Mr. Gordon: I'm also confused, I sympathize with your having to back out and get there, aren't you going to have to back out again?

Mr. Wills: No, I'll be able to turn around in the area.

Mr. Gordon: In the front there, on Sterling?

Mr. Wills: No, in the area of the driveway by the garage. The car coming out of the left will be able to back up toward the garage and then pull out.

Mr. Gordon: That is how many feet?

Mr. Rosen: Twenty-one.

Mr. Gordon: Twenty-one.

Mr. Rosen: Almost twenty-two.

Mr. Gordon: So, make a Y turn, your saying, and pull out?

Mr. Wills: Yes, and then pull out. The truck I would probably back it down. I don't use my truck that much really. I use my motorcycle more than my truck. I use my truck on rainy days, snowy days. All the others, it's the motorcycle.

Mr. Gordon: I'm answering my own question. You can't fit it in because your garage is 24 ft. and your opening is 21.8 ft.

Mr. Wills: Minus the 4 ft.

Mr. Gordon: Minus the 4 ft. So, you'd have to be even up against the house.

Mr. Wills: You know it would make it tight there. It's a good idea; I wish I could do it.

Mr. Gordon: Ron, how wide are garage doors?

Mr. Alarie: Nine feet.

Mr. Gordon: How about a double door?

Mr. Alarie: Sixteen, I think. I think that you'd have more of the building encroaching within the setback if you were to do something like that as opposed to keeping it kitty corner.

Mr. Gordon: Okay. So, the hardship right now is that it's a non conforming lot?

Mr. Rosen: It's a non conforming lot and, there's no where else to put it.

Mr. Gordon: And, there's no where else to put it.

Mr. Confalone: Yes. No matter where he moves it he's going to need a variance.

Mr. Gordon: Well, unless he moved it directly behind the house and came out on Acorn Street. That's not a viable option for him from what he said. Well, you'd have to rebuild Acorn.

Mr. George: Right.

Mr. Gordon: And, he's got that mound there.

Mr. Wills: Yes, that's all the plowing from the snow.

Mr. Gordon: I'm all set.

Mr. Rosen: Is there anyone else?

Mr. Schaetzke: Mr. Chairman, I'm concerned about the right-of-way, that we don't have any way of determining whether the right-of-way encroaches onto the applicant's property and, if we would approve this, if we are in effect putting part of the garage at or in part of the right-of-way.

Mr. Gordon: That's why I asked for a certified survey before he gets a permit. I think that that's an important thing because I have the same concern.

Mr. Rosen: Right now we're doing this based on a plot plan.

Mr. Alarie: I would suggest that the certification come after the foundation is in before I release the remainder of the permit, that we get a survey ahead of time, we put the foundation in and then certify that he does have at least the 4 ft. from Acorn Street. That's our standard practice, to get the exact location of the foundation after it's installed and get the true setbacks.

Mr. George: Ron, what if the foundation, after the survey is done, is in the right-of-way? Then what do you do?

Mr. Gordon: We rip it up.

Mr. Alarie: Relocate it. Usually what happens is they'll come in and do a survey, establish where the lines are, set the foundation and come back and certify the location, but first pin or stake the foundation location.

Mr. Gordon: Remember, we did that on Route 140? The foundation wasn't where it was supposed to be and we asked the guy to move it. He wasn't happy about it.

Mr. Confalone: Well, Mr. Wills, doing your own survey ahead of time is a good idea.

Mr. Wills: I was kind of planning on that anyway because I might end up with more than I think I have now. You know, it's kind of questionable where it is. I've tried to find the pins which are in the far part of my land. I've been trying to get my neighbor to tell me where the line is. I think there's a stone down on Edgewater and Acorn, but I couldn't find it.

Mr. Gordon: Well, a surveyor could find it.

Mr. Wills: All I have is my one and that's it. I have nothing else to go by so I have nothing with that.

Mr. Rosen: Do we have any other questions? Is there anyone in attendance who would like to comment on this petition? Please, just state your name.

Mr. Vincequere: Anthony Vincequere, 9 Acorn Street. I'm the house across from him. What I don't understand is, where the entrance of the garage is, is that going to go down by Sterling or is he going into Acorn?

Mr. Rosen: Sterling.

Mr. Gordon: Sterling.

Mr. Rosen: The driveway entrance isn't changing.

Mr. Vincequere: I'm concerned about any traffic flow. There are cars that are parked on that street, up and down it, so there is traffic there. That's my main concern. We have children up and down the street, grandchildren and other children up the street. That's all my concern, that traffic flow.

Mr. Gordon: He plans to go out Sterling Street.

Mr. Rosen: He's not changing the driveway. It's still going to come off of Sterling. Is there anyone else?

Ms. Vincequere: Yes. I'm Marine Vincequere, the other half of Anthony Vincequere. My concern is all the other cars that come. Acorn Street is right off of Sterling, but also off of Svenson, where they come together. You said that you didn't know exactly where it was. It's down by Jordan Pond. There is a lot of traffic on Acorn Street even though it's supposed to be a private street and it's a dirt road, which makes it harder. Two cars cannot pass. I have a family who comes and visits, but we get to borrow the garage next

door to us which is now being sold. It's up for sale, the whole house. So, that's another issue, but we're the only house that actually faces Acorn Street. So, my concern is how is all of this going to affect my property because my house faces their driveway right now. With all of their company and people and the way that he has there, you know, work on cars, I'm concerned. Is he going to be working on a lot of cars because of this? Is this going to make more traffic on my street because, sometimes when the cars are parked across the street, we have a hard time getting in and out of our driveway? So, that's my concern. Is he going to be alleviating all those other things?

Mr. Gordon: Excuse me ma'am, what do you mean "work on cars?"

Ms. Vincequere: Well, you know, he works on his motorcycles and whatever.

Mr. Gordon: His own cars?

Ms. Vincequere: Well yes, but I'm not saying that he shouldn't help other people, but I've seen other people's cars and motorcycles there as well. That's what my concern is. Is this going to mean more traffic, more motorcycles, more early in the morning, later at night?

Mr. Gordon: I think that we can settle that in our decision. It shouldn't be used anyway. It's residential neighborhood.

Mr. Rosen: It's a residential neighborhood and this isn't for a commercial garage.

Mr. Confalone: Right.

Ms. Vincequere: Well, that's what I want to be sure of because of the noise level.

Mr. Rosen: As far as we know, there shouldn't be any change.

Ms. Vincequere: Okay.

Mr. Rosen: It shouldn't impact because there's no egress from Acorn. It shouldn't affect anything that's happening on Acorn Street.

Ms. Vincequere: Well, okay. That's my biggest concern, as long as it's not going to infringe upon Acorn any more. There's really not much of Acorn Street to move in.

Mr. Rosen: Thank you.

Ms. Vincequere: Thank you.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Mr. Schaetzke: I have one more question. If the 4 ft. setback, if the right-of-way is within those 4 ft., does that matter?

Mr. Rosen: Well, if he gets a certified plot plan, it has to be 4 ft. away from the line.

Mr. Schaetzke: No, but we're saying 4 ft. from the lot line, correct?

Mr. Rosen: Yes.

Mr. Schaetzke: The right-of-way could extend.

Mr. Rosen: No.

Mr. Alarie: There is a right-of-way and his property line and the sideline of Acorn Street are one in the same.

Mr. Schaetzke: They're one and the same?

Mr. Alarie: Yes.

Mr. Schaetzke: Okay. That was the question.

Mr. Wills: Can I address one thing? It's just work on my vehicles.

Mr. Rosen: Okay.

Mr. Wills: I'm a motor head. I'm a licensed airplane mechanic. I have a race bike and I have a street bike and I work on my own vehicles. I eventually want to restore a car instead of just motorcycles. It's all my stuff, it's nobody else's.

Mr. Rosen: Okay.

Mr. Confalone: It has to be your stuff.

Mr. Rosen: We're all set on this one. We'll notify you of our decision. Thank you all for coming tonight.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Christine and Guy Wills, 21 Sterling Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition 4 ft. from the sideline of Acorn Street upon property located at 21 Sterling Street.

The board noted, upon review of this appeal, that the subject premises is nonconforming with respect to several of the minimum dimensional controls set forth in Table II of the Zoning Bylaw. The property is located at the corner of Sterling Street and Acorn Street with the existing residence sited well within the minimum front yard setback to each street. The lot contains only 10,000 sq. ft. of land, is only 80 ft. in width and, with its corner lot configuration and the dual front yard setbacks applicable to both streets, the

building envelop of the lot is substantially reduced. It was the board's opinion that, due to the configuration of this parcel, the literal application of the applicable terms of the bylaw would impose a significant hardship to the appellants in their attempt to add a garage to their home. They also noted that Acorn Street is a private, unpaved way and felt that the reduction of the minimum front yard setback to this street would not seriously depart from the intent of the bylaw or create any condition which would adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following conditions:

1. The proposed garage shall be of single story construction.
2. A plot plan prepared by a registered land surveyor certifying the location of the garage foundation subsequent to its installation shall be submitted to the office of the Building Inspector prior to the construction of the remainder of the garage.
3. The access/egress driveway to the proposed garage shall enter the Wills' property from Sterling Street. There shall be no access/egress opening installed onto Acorn Street.

Vote

Mr. George	Yes
Mr. Gordon	Yes
Mr. Rosen	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Susan L. DeHoff, 33 Venus Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Susan L. DeHoff, 33 Venus Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 33 Venus Drive for private tutoring, diagnostic testing and pastoral counseling. The subject premises is described on the Shrewsbury Assessor's Tax Plate 10 as Plot 31-60.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Ms. DeHoff: Yes, you have pretty much said what I need. I am renewing a permit.

Mr. Rosen: This is a renewal?

Ms. DeHoff: Yes, this is a renewal

Mr. Gordon: The second or the third?

Ms. DeHoff: This is the third.

Mr. Rosen: How long was the last one?

Mr. Alarie: In 1999, the board granted a special permit for a period of two years. In 2001, they renewed the permit for five years.

Mr. Rosen: Have there been any complaints, anything from the neighbors?

Mr. Alarie: No.

Mr. Rosen: How long do you think you'll plan on continuing your business?

Ms. DeHoff: I don't have any plans on stopping as long as I am in the area. I'm working on a PHD at Boston University. So, when that is done, I don't know what I'll be doing. That's not going to be done at least until 2009. At that point, I would still want to continue some counseling. Hopefully, I can also get at least an adjunct professorship somewhere locally, but I don't have any plans to, at some point, totally stop doing counseling.

Mr. Rosen: Does anyone have any questions?

Mr. Confalone: I guess it would just be really for the board to decide what the time line would be. She's been there seven years without a complaint.

Mr. Gordon: I would suggest ten years.

Mr. Rosen: I would suggest ten, yes.

Mr. Confalone: I have no problem with that.

Mr. Gordon: Ten will take you to retirement.

Ms. DeHoff: Well, at least partial retirement.

Mr. Gordon: Or your professorship.

Ms. DeHoff: There you go.

Mr. Rosen: Is that good for you, ten years?

Ms. DeHoff: That's fine as long as I can renew it again if I need to beyond that.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Can you please state your name for the record please?

Ms. Smieszek: Marzenna Smieszek.

Ms. DeHoff: Hi Marzenna.

Ms. Smieszek: Hi. We are neighbors and we share our driveway with Susan. Because we have two little children, we are just concerned about the safety with the traffic. So, we actually thought would it be possible for the cars to park on the street?

Mr. George: It's a common driveway?

Mr. Gordon: It's a common driveway.

Ms. Smieszek: We are new neighbors. We bought the house two years ago.

Mr. Gordon: Mr. Chairman? Have there been any issues? Have you had any issues, any safety issues, with your children with her clients? Has anybody been a problem?

Ms. Smieszek: Well, I don't know what you're trying to tell me. The problem is that...

Mr. Gordon: The safety of your children is what I call a problem.

Ms. Smieszek: The safety of our children is basically what it is. We are trying to protect them all the time. One is three and one is six. Even when you do your best and you have all of the cars parking on this driveway, sometimes with parking like that, we are more concerned than if we don't have parking.

Mr. Confalone: How many cars are there at one time?

Ms. DeHoff: Not more than two. That would be the most. There wouldn't be two there for a lot of the time, only if someone is picking up a child near the time that someone is dropping off a child.

Mr. Gordon: What are your hours of operation?

Ms. DeHoff: I start at 10:00 in the morning and I stop at 7:00 in the evening. That's four days a week.

Mr. Rosen: Ron, did we restrict traffic to parking?

Mr. Alarie: Nothing relative to parking, just testing hours. I'm not sure what that relates to in terms of your counseling, but it said testing during the hours of 10:00 A.M. and 2:00 p.m. shall be limited to one student per session.

Ms. DeHoff: Right.

Mr. Gordon: So, that would be the two cars, one coming and one going.

Ms. DeHoff: Right.

Mr. George: How many clients do you see during the course of a day?

Ms. DeHoff: Usually the most would be five.

Mr. Gordon: So, you're a 50 minute hour person?

Ms. DeHoff: Not necessarily, no. Some of the students are there for an hour and a half.

Mr. Gordon: I see, okay.

Ms. DeHoff: Some are there for a sixty minute hour and sometimes they get done early and they leave after, you know, fifty minutes. A one hour appointment would be between fifty and sixty minutes.

Mr. Gordon: Okay.

Mr. Confalone: We're not authorized to do anything to put cars on the street. I think that the Shrewsbury Police would have issue with that.

Mr. Gordon: Well, you know that this is a dead end?

Mr. Rosen: Is it, yes.

Mr. Gordon: Yes, it's a dead end.

Mr. Rosen: There's no issue with on street parking is there?

Mr. Alarie: For general parking, not other than from 1:00 A.M. to either 6:00 or 7:00 A.M. However, with the special permit, on street parking would not be permitted. It should be maintained upon Ms. DeHoff's property.

Mr. Confalone: Okay.

Mr. Gordon: I don't think that we have any testing from 1:00 A.M. to 6:00 A.M.

Ms. DeHoff: No.

Mr. Confalone: That's not an issue.

Mr. Rosen: Can we modify it to have your clients park on the street?

Ms. DeHoff: It wouldn't be a problem for me. It would be an inconvenience for them in bad weather because the driveway is steep.

Mr. Alarie: Again, the bylaw requires that off-street parking must be provided in conjunction with any home office or profession such as this.

Mr. Rosen: Right.

Ms. DeHoff: That would put children walking up a steep somewhat slippery driveway in inclement weather. I would say too that this is not a driveway that is used as a playground area. I mean, Marzenna's children are not out playing in that driveway because it's not a playground. All of the play equipment is in the backyard so this is not a place that is disrupting any kind of leisure or play activity. It would simply be a matter of, I suppose, the children getting into or out of a car or if they go for a walk, and your mother takes them for a walk, but there's an adult out there with them.

Mr. Gordon: You have no trouble advising your clients that there are little children next door and to be careful and exercise care and safety?

Ms. DeHoff: Oh, absolutely not.

Mr. George: I don't think that she's having more traffic than what the other person would be doing traveling back and forth doing errands or whatever during the course of the day.

Mr. Gordon: No, it doesn't sound it.

Ms. DeHoff: No. Were I a parent with children, my car would be the one up and down the driveway instead of someone else's.

Mr. Gordon: That's what Paul just said.

Ms. DeHoff: Right.

Mr. Gordon: And there always is the option that if the permit is being violated by more than that for you to make a complaint and come back and we'll hear it.

Ms. DeHoff: Or, certainly feel free to give me a call if there's a problem because I think that your little girls are as precious as they can be. They are sweet little ones and I would not want anything to happen to them. So, any time that you're really concerned about a dangerous problem, I would want you to let me know and I would want to respond in a way that would protect them.

Ms. Smieszek: I understand that there will be parking on your driveway so can they turn off the engines?

Mr. Gordon: I think that she can request that.

Mr. George: Yes.

Ms. Smieszek: Because, with the hot weather, it's on and, with the cold weather, it's on.

Mr. Gordon: It might be a little harder with the cold weather.

Ms. DeHoff: I imagine that there are certain people who do that and I'm not aware of the ones who do because I know some park their car and come in and wait while I'm working with their children.

Ms. Smieszek: You don't know who?

Ms. DeHoff: Right. So, if you let me know which ones, I can make sure that they turn the car off.

Ms. Smieszek: Well, I just don't want to them to go close to the cars if they're running.

Ms. DeHoff: Don't worry about that that would be fine. If there's a problem, I would want you to call me any time. Feel free to interrupt.

Mr. Rosen: Were your concerns addressed? Do you feel like all of your concerns have been addressed? Okay. Is there anyone else?

Mr. Gordon: I just move that we make it for ten years and leave the permit as is.

Mr. Rosen: Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Susan L. DeHoff, 33 Venus Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 33 Venus Drive for private tutoring, diagnostic testing and pastoral counseling.

The appellant has been providing tutoring and testing services within her home in accordance with special permits issued by this board, the first of which was approved in 1999 and subsequently renewed in 2001. Ms. DeHoff seeks a renewal of those rights authorized by those permits and the ability to conduct pastoral counseling in addition thereto.

Upon review of this appeal, the board found that Ms. DeHoff has performed the aforementioned services for the past several years in compliance with the specific terms and conditions of the special permits previously issued as well as in accordance with the intent of the Zoning Bylaw in permitting the use of one's residence for specific types of home-based professional activities. They found that neither the nature nor the conduct of her business would materially change with the offering of pastoral counseling in association with the other services she provides and that, collectively, the use of her home for said purposes has not created any condition which has adversely affected the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal subject to the following:

1. The rights authorized by this granting are issued solely to the applicant and shall cease with either the termination of her ownership or residency of the subject premises.
2. The aforementioned services shall be conducted substantially in accordance with the appellant's current and past presentations to the board and shall only be conducted

four days per week, Saturdays and Sundays excluded, between the hours of 10:00 A. M. and 7:00 P. M.

3. No more than two students may be tested or tutored at any one time. Pastoral counseling shall be limited to family members or not more than two unrelated individuals at any one time.
4. The rights authorized by this granting shall remain in effect for a period of 10 years, said period commencing upon the date of the filing of this decision with the office of the Shrewsbury Town Clerk.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Scott and Colleen Brownstein, 45 Camelot Drive, Shrewsbury, MA

PURPOSE: To hear the appeal of Scott and Colleen Brownstein, 45 Camelot Drive, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 10 ft. from the sideline of King Arthur Road and 10 ft. from the side lot line of property located at 45 Camelot Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 6 as Plot 110.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Mr. Rosen: Please make your presentation.

Mr. Brownstein: Hopefully my landscape person, Rutland Nurseries, gave you a copy of the plans. I guess you need to be 30 ft. from the property lines, normally, with the pool. If you look at the plan, unfortunately with our backyard and the way that it's shaped, there's no way that we can get 30 ft. from the property line.

What we do plan on doing though is we have a fence around the yard already. We actually plan on just extending the fence a little bit toward King Arthur to give a little bit more room in the backyard and putting up some privacy shrubs and trees so that it sort of blocks out the outside area, both for our privacy as well as for our neighbors. We also plan on putting a fence on the inside of the pool. The pool itself will be fenced in because I have three little children so that will be protecting the kids from the pool as

well. But, as you can see to meet the 30 ft., no matter where we go it, would basically put the pool inside our house.

Mr. George: What are you, 20 ft. off of the property with the pool?

Mr. Brownstein: The pool would be about 10 ft.

Mr. George: Ten feet?

Mr. Brownstein: Yes.

Mr. Rosen: Is it going to be closer to the King Arthur side of the lot?

Mr. Brownstein: Closer to the King Arthur roadside, yes.

Mr. Rosen: Is that where you're going to extend the fence?

Mr. Brownstein: We're going to extend the fence toward the King k Arthur side, exactly. I think that the plan was to go about 12 ft. toward the King Arthur roadside just to give a little more room for the pool.

Mr. Gordon: So, what are you going to do with the jungle gym?

Mr. Brownstein: That's on the other side. We're trying to keep as much grass for the kids as well.

Mr. Confalone: The 10 ft. is to the pool, right, not to the brick path?

Mr. Brownstein: Yes, to the pool.

Mr. Confalone: Yes, the drawing is showing to the walkway, the brick walkway.

Mr. Brownstein: I'm sorry; maybe I misunderstood your question?

Mr. Confalone: Yes, from the property line it's showing 10 ft. to the edge of the pool?

Mr. Brownstein: To the decking.

Mr. Confalone: To the decking, okay.

Mr. Brownstein: Well, it may be 10 ft. to the decking, but actually the pool may be a little further away.

Mr. Confalone: Another 20 ft. or so?

Mr. Brownstein: Another like 5 ft. or so. The decking is not going to be very wide.

Mr. Alarie: I'm sorry but those dimensions were put on by office staff. I think that it was a little bit unclear as to where the sidewall of the pool was. I think that the actual request was to allow the sidewall of the pool to be within 10 ft. of the property line.

Mr. Rosen: The property line?

Mr. Alarie: Yes, from both property lines.

Mr. Gordon: How big is this pool?

Mr. Brownstein: I don't know, to be totally honest with you. It's relatively small.

Mr. Gordon: Is it 16 ft. by 32 ft.?

Mr. Brownstein: Yes, it's going to be right in that area.

Mr. Gordon: Is it a standard size for a pool contractor?

Mr. Brownstein: Oh, yes. It's going to be toward the smaller side, actually, because we just don't have a large backyard.

Mr. George: Where's the fence going to be located? You said that there are going to be two fences?

Mr. Brownstein: Well, we already have a fence around the perimeter of our backyard. We're actually going to put a fence inside to protect the children from the pool so we're going to put up a wrought iron type fence on the inside 4 ft. high with a gate.

Mr. George: That will tie into the existing fence?

Mr. Brownstein: That's going to tie in so two sides of the fencing for the pool will be the existing fence and the other two sides will be a new fence that goes on the inside of the fence.

Mr. Rosen: Fred, do you have anything else?

Mr. Confalone: No.

Mr. Gordon: I have no problems.

Mr. Rosen: Anyone else? Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Scott and Colleen Brownstein, 45 Camelot Drive, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow

the installation of an inground swimming pool 10 ft. from the sideline of King Arthur Road and 10 ft. from the side lot line of property located at 45 Camelot Drive.

The appellants' property is located at the corner of Camelot Drive and King Arthur Road and, because of its corner lot configuration, an inground swimming pool must be located a minimum of 30 ft. from its side lot lines as well as the 20 ft. from King Arthur Road. Due to the size of the parcel and the siting of the existing residence thereon, the board noted that there is no area upon the premises whereby an inground pool can be placed in conformance with the aforementioned setbacks. It was their opinion that, in this instance, the literal application of the minimum terms of the Zoning Bylaw would impose an undue hardship to Mr. and Mrs. Brownstein in their attempt to effect the proposed installation. They found that the reduction of the setbacks would not seriously depart from either the intent or the purpose of the bylaw and that the installation of the pool, the planting and the fencing as shown on the plan submitted with their Form of Appeal would not adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Michelle and John Liberty, 24 Hillside Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Michelle and John Liberty, 24 Hillside Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of a second story addition upon property located at 24 Hillside Drive maintaining the existing nonconforming setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 40 as Plot 152.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Ms. Liberty: I'm Michelle Liberty. This is my husband John.

Mr. Dupre: I'm Edward Dupre and I live at 16 Greenleaf Farms Circle. I'm the developer and the father of Michelle. I will be helping out with their construction so I'll walk you through this.

Both Michelle and John, as they said, live with their three children at 24 Hillside Drive in a home that they purchased in 2000. Right now, they find that they need more space and we have to put an addition on.

I have a few things to pass out that will make it a little easier for you to understand based on what you'd originally received. I colored these for you.

I also have for you a picture of the existing home that you can pass around.

(Mr. Dupre presented the materials and a picture to the board members.)

What we're proposing to do is, if you look on the first plan, the instrument survey plan prepared by Bouley Associates, it shows the existing home in yellow and that portion to be removed in red. On the building permit plan, we have also highlighted the new additions in green with all of the setbacks.

Our proposal is as follows. On the left-hand side of the home there's an existing carport which is nonconforming. We're going to remove that carport. We're going to construct, on the right-hand side of the home a conforming one-car garage which will set back 30.1 ft. from the road with a room above that and we will then put a deck in back.

Our main proposal is to put an addition on the second floor. Right now, the foundation is conforming. It's 30.1 ft. back from the lot line, but the first floor cantilevers out 25 in. making it 28.1 ft. We're looking to extend that up one more level. The right-of-way is 50 ft. wide and the road is 30 ft. Our line actually starts 10 ft. in from the road so, in essence, the house right now is 38.1 ft. to the second floor.

I do have a picture and a drawing of the addition which will show you exactly what we're going to have when we're done. I'll just hold that up for every one to look at. These are the building plans.

Mr. Gordon: Okay. Please show it to the audience also.

Mr. Dupre: And anyone else who wants to see it. Basically, that's our proposal. It's pretty simple. They need more space and they want to stay in town. They were both born and raised in Shrewsbury and they would like to go up another level. They have three bedrooms now and they need a fourth so we would like to go up.

Mr. Rosen: Are there any questions? Go ahead Paul.

Mr. George: I have just one question. You're removing that carport?

Mr. Dupre: Correct.

Mr. George: A one-car garage is going to be incorporated into the main part of the house?

Mr. Dupre: The one-car garage will attach to the right-hand side so that we will then have a two-car garage.

Mr. Gordon: Yes, there's a one-car garage on the right.

Mr. Dupre: When the carport gets removed, we'll loam and seed the area. We'll berm off the driveway opening and we'll get a permit for an additional opening to widen that garage to the right so that we'll have a two-car setup.

Mr. Gordon: So, you're going to go straight up?

Mr. Dupre: Yes.

Mr. Gordon: Okay. This is a split level now, right?

Mr. Dupre: Right.

Mr. Gordon: What is it going to be when you're done?

Mr. Dupre: It's going to be a two and a half story.

Mr. Gordon: Okay, so the split level will remain and there will be a story above it? It will basically still be called a split entry home with a basement which is half below ground and half above ground and then two stories?

Mr. Dupre: Yes.

Mr. Gordon: Okay.

Mr. Dupre: My daughter did meet with her neighbors and reviewed all of the plans with her neighbors. She does have a petition she'd like to give you with all of the signatures to support her appeal.

Ms. Liberty: Nobody did seem to have a problem with the addition. I have some signatures that you can pass around.

(Ms. Liberty presented the petition to the board.)

Mr. Rosen: Are there any other questions? Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Michelle and John Liberty, 24 Hillside Drive, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of a second story addition upon property located at 24 Hillside Drive maintaining the existing nonconforming setbacks of said property.

The appellants occupy a split level, single family dwelling situated upon the subject premises which is nonconforming with respect to its front yard setback. They plan to alter and expand their home utilizing, but overall, lessening its nonconforming features. The carport that is attached to the easterly side of the structure, which sits 22.5 ft. from the sideline of Hillside Drive, would be removed and a new garage would be added to the opposite side of the house in conformance with all applicable setbacks. The major expansion of the dwelling centers upon the construction of a second story addition which would sit 28.1 ft. from the front lot line, but over 38 ft. from the paved edge of Hillside Drive.

Upon review of this appeal, the board concluded that the granting of the special permit to effect the Libertys' plans would bring their property closer into compliance with the applicable requirements of the Zoning Bylaw and that the changes proposed would greatly moderate its nonconforming features. It was their opinion that the structure, when completed, would compliment the general character of many of the other homes within the Hillside Ave. neighborhood and that its alteration and expansion would not create any condition which would adversely impact the welfare of the residents therein. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Dennis and Judi Goodwin, 65 Washington Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Dennis and Judi Goodwin, 65 Washington Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 32 ft. from the rear lot line of property located at 65 Washington Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 29 as Plot 81.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Stephan M. Rodolakis, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Gordon: Mr. Chairman, I have what might be considered an apparent conflict for this hearing. Mr. Rodolakis will be sitting in my place if you don't mind.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Mr. Goodwin: I'm Dennis and this is my wife, Judy. It's pretty much what you said. We're looking to put on a 14 ft. by 20 ft. addition to an addition that we had already put on about five years ago. Currently we need the variance because we're too close to the rear lot line.

Mr. Rosen: Is the addition just a one story addition?

Mr. Goodwin: Yes. It's an addition to the addition that we put on.

Mr. Rosen: That's everything? Do you have any plans or anything?

Mr. Goodwin: We have some drawings. I have one copy of each.

(Mr. Goodwin presented the drawings to the board members.)

This is the existing addition and this is what we propose. This is the lot line. It looks like it's going to be 30 ft. from the rear lot line. These are pictures of the existing house.

Mr. Rosen: You don't need the side? You're just going for the rear, correct?

Mr. Goodwin: Right. The side is fine. It's the rear where we are too close.

Mr. Rosen: Okay. So, you didn't need a variance for the original?

Mr. Goodwin: The original addition, no.

Mr. George: Is there going to be a deck or anything off of there?

Mr. Goodwin: There's going to be a small deck on the back of it.

Mr. George: How far out is that going to come?

Mr. Goodwin: I think that it's 5 ft.

Mr. George: It appears to be different on this plan?

Mr. Goodwin: It says a couple of different concepts of what it's going to be like. If you look at this picture here, you see that this is the existing addition. This would be the new one. This is another approach that we might take. It would make it look like all one.

Mr. Schaetzke: Do you have any idea which one?

Mr. Goodwin: We don't know which because we don't know yet what the cost would be of each.

Mr. Rosen: In terms of siding, everything will be matching?

Mr. Goodwin: Everything will be matching with the current siding.

Mr. George: Is this going to have a cellar?

Mr. Goodwin: No.

Mr. George: No foundation?

Mr. Goodwin: No, no foundation. It's going to be on sono tubes.

Ms. Goodwin: The original room right now is on sono tubes.

Mr. George: Right.

Mr. Rosen: There's nothing behind you, correct?

Mr. Goodwin: No, nothing but a hill.

Mr. Rosen: Does anyone else have a question? Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Dennis and Judi Goodwin, 65 Washington Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 32 ft. from the rear lot line of property located at 65 Washington Street.

Upon review of this appeal, the board noted that the appellants' property is legal nonconforming as it is only 10,000 sq. ft. in area and that, due to its size, the buildable envelope of the lot is significantly reduced. They found that the imposition of the minimum terms of the Zoning Bylaw to this property creates an undue hardship to the Goodwins in their attempt to expand their home. They also noted that the land abutting the rear of their lot is town owned and is not buildable and felt that the reduction of the rear yard requirements under such conditions would neither depart from the intent of the bylaw nor have any impact upon the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Rodolakis	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Scott T. Wade, 16 Wesleyan Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Scott T. Wade, 16 Wesleyan Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the two-family dwelling situated upon property located at 16 Wesleyan Street as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 175.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Mr. Rosen: Would you make your presentation please.

Mr. Wade: We have a finished building and I have a two-family home now. We would like to have the apartment on top of the garage, half of the garage, half on top, for my brother to move in and live there. It would be a one-bedroom small efficiency with a private entrance. He's very quiet and has one car.

Mr. Rosen: This will go on top? If I remember, there's a garage that's being built there now?

Mr. Wade: Yes. It's almost done.

Mr. Rosen: This would be above that?

Mr. Wade: Above the garage.

Mr. Rosen: The whole garage?

Mr. Wade: Not the whole thing, but half of it.

Mr. Rosen: It's a two-family now?

Mr. Wade: It's a two-family, the main house.

Mr. Rosen: You currently reside there?

Mr. Wade: Yes.

Mr. Gordon: This is a Residence B-2 zone.

Mr. Rosen: Which allows two-families.

Mr. Gordon: Which allows two-families.

Mr. George: Are there going to be just two families or are there three families in this building?

Mr. Wade: In the garage itself, there will be one family. In our main house, there are two floors, two families.

Mr. George: So, there is a total of three families now?

Mr. Wade: Yes, there will be three families and then my brother.

Mr. Rosen: Two families and your brother?

Mr. Wade: Yes, two families and my brother.

Mr. Rosen: Does anyone else have a question?

Mr. Gordon: Are you going to modify what you've built? The only entrance that I saw is toward the house. There's a door going in the side of the garage which goes to the first level.

Mr. Wade: Yes.

Mr. Gordon: There may be a foyer in there but is there going to be an outside entrance built?

Mr. Wade: Yes, we're in the process now of building an egress to the bedroom side. There'll be a full stair that goes up.

Mr. Gordon: So, that will be on, what would that be, the east side? There will be a stairway up from the outside?

Mr. Wade: Yes and a deck, a small deck.

Mr. Gordon: Okay. Just out of curiosity, how old is your brother?

Mr. Wade: He's my age; he's my twin.

Mr. Gordon: Oh, okay.

Mr. Confalone: You will have three families living in this house. Are you going to have enough parking in the driveway?

Mr. Wade: Yes, we're going to make it into a double driveway. The garage doors are 34 ft. so there will be plenty of room. He'll just have the one car.

Mr. Gordon: Would you have any problem, if we decide to grant this, to have this permit have a sunset provision that, when you sold the house, basically the people who bought the house would have to come back if they wanted an in-law apartment?

Mr. Wade: If that's the procedure, sure.

Mr. Rosen: It would basically expire with your ownership.

Mr. Gordon: It would expire with your ownership.

Mr. Wade: Okay.

Mr. Gordon: That's what we've generally done. I think that we only got tricked once. That's why we did it.

Mr. Rosen: The only other question that I have is, right now, the siding on the garage doesn't match the siding on the house. Is that ultimately going to match?

Mr. Wade: Yes, we're going to have the whole thing the same, the same vinyl as the garage.

Mr. Rosen: Okay.

Mr. Wade: That should happen by the fall.

Mr. Rosen: Okay. Does anyone else have a question? Is there anyone in attendance who would like to comment on this petition? Please state your name for the record.

Ms. Camarra: Sure, Lynda Camarra from 10 Wesleyan, two houses down. My question was answered, thank you very much, in that, if the property turned over, it would then expire. I don't think that you're ever going to see it expire because this family has been there forever and I hope they still will be. They're good neighbors. I have no problem with it. My concern was in-laws. I didn't want to see it be different people coming and going constantly. I know that, once an in-law gets in there, they'll stay. So, thank you for answering that.

Mr. Rosen: Thank you for coming. Is there anybody else? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Scott T. Wade, 16 Wesleyan Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the two-family dwelling situated upon property located at 16 Wesleyan Street as an in-law apartment.

The subject premises is located within a Residence B-2 District and the residence thereon is currently occupied as a two-family dwelling. The appellant is currently constructing an attached, two story garage to the rear of the existing structure and proposes to occupy approximately half of its second floor area as an in-law apartment.

Upon review of this appeal, the board found that the appellant's proposal to create a relatively small two room in-law apartment above the aforementioned garage was in full harmony with the intent of the Zoning Bylaw in allowing such accessory living

accommodations attached to or within permitted two-family dwellings. It was their opinion that the use and occupancy of this unit would not create any condition which would adversely impact the welfare of either the general public or area residents and, therefore, unanimously voted to grant the appeal as presented to the board. The special permit is issued subject to the restriction that the rights authorized by this granting shall remain in effect only during that period of time that the appellant owns and resides at the subject premises.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Wake Realty, LLC, 149 Memorial Drive, Shrewsbury, MA

PURPOSE: To hear the appeal of Wake Realty, LLC, 149 Memorial Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the sale and rental of merchandise relating to the amusement and entertainment industry and to teach magic and to conduct private parties in association therewith upon property located at 149 Memorial Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 47 as Plot 3-10.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Atty. Ricker: Thank you Mr. Chairman and members of the board. Respectfully, my name is Richard Ricker. I'm an attorney with offices at 11 Maple Avenue. I'm also an abutter to this particular property. Seated to my right are Kelly and Walter Desrosier, who are the principals of the applicant here. Walter is the manager actually. Specifically, they've been running a business called "Magic World" for 22 years in town.

They've recently moved to this location, which is right on Memorial Drive. It's sandwiched, actually, between Memorial Drive Business Park and the Baptist Church. I'm sure that you're all familiar with that area. It used to be the location of Jim/Jan's Crafts. Also, they had dancing lessons there. They also have ice cream sales there. This particular property has been the subject of several variances in the past. All of the variances were borne out of the topographical conditions as well as the size, shape and the lack of utilities in that particular location for industrial use. As I said, Jim/Jan's used to sell crafts and they had craft lessons. They had some dance lessons there for a period of time.

This particular business is very similar in as much as they sell and rent entertainment equipment. They also would like to merchandise that equipment plus do some magic lessons and have some parties in a room in the building. The building is also unique for this type of business. It's a barn structure. Eve's Cakes is on the first floor as you walk out. The remainder of the structure will be used for this particular business. The Desrosiers are living there. They plan on staying there as residents.

As I say, this is unique in as much as this particular parcel is kind of sandwiched there. It's a small long and narrow parcel that basically is, as I say, between the entrance to the business park and the church. It is at the end of that zone. Beyond it, where the church is, is residential. This is the end of the Limited Industrial Zone. I believe that the Route 20 Overlay District also reaches right to that particular zone line.

There wouldn't be, I suggest, any derogation from the bylaw. They are going to be living there. The intent of the bylaw would be to minimize the impact. In this particular case, it wouldn't be heavy commercial truck traffic coming in and out of the property thereby affecting the neighbors with any kind of adverse affects. I would suggest that that goes to the remainder of the four points of variances. That would be that there would be no additional detriment to the neighborhood caused by this. There would be no additional traffic there. As you know, Route 140 is a busy highway. This would be a less intensive use in terms of truck traffic and things like that than, for instance, even the industrial park next door. With that, perhaps if you have any questions, I'd take them.

Mr. George: You said that you were proposing to have parties. Are they going to be inside, outside?

Mr. Desrosiers: Inside.

Mr. George: Inside, so there will be no activity outside?

Mr. Desrosiers: No.

Mr. Confalone: How big of a party can you have there?

Mr. Desrosiers: Up to fifteen and twenty kids. We have a party room. There are actually two rooms. One is a party room where they have their cake and ice cream and everything. They walk over to an adjacent, we call it a magic room, where I perform a show and make some balloon animals. It's a two hour party. After that, they go home.

Mr. Confalone: So, that's the biggest party that you would have?

Mr. Desrosiers: Yes.

Atty. Ricker: There's plenty of parking there.

Mr. Desrosiers: Yes, we have twenty-six spaces.

Mr. Gordon: How many air items are you going to have outside, like the jumping thing and that kind of thing?

Mr. Desrosiers: If you could drive by, if you drove by Route 9, we were there 22 years.

Mr. Gordon: Elm Street and Route 9, right?

Mr. Desrosiers: Yes.

Mr. Gordon: You had the same thing out there.

Mr. Desrosiers: Right. What happens is, if it rains, we have to dry them so sometimes we put them out. I can assure you this is what happened on Route 9 and by 5:00 they were all down, rolled up and put away so that I could go home. That's basically what we did. So, we put them up in the morning, they would dry and then we would roll them up and put them away. That's what we try to do.

Mr. Gordon: Okay, so they're not going to be left out there for periods of time?

Mr. Desrosiers: No, no, no.

Mr. Gordon: What would the maximum number be that were out there?

Mr. Desrosiers: You know, we could do five at a time. We would have to dry them, then we would roll those up, put them away and then we would put up another five. It's all predicated with the electricity that we have. We only can plug in so many.

Mr. Gordon: Okay.

Mr. Desrosiers: Then we dry them and put them away. Sometimes we work on them, just some upkeep.

Mr. Gordon: The Eagle trailers, those are for storage? They will be remaining there?

Mr. Desrosiers: They're for storage. We hope, in a few years, to put on the property a storage facility. That's what we're hoping for.

Mr. Gordon: That's down the road?

Mr. Desrosiers: Later on, yes.

Mr. Gordon: What about the train up on top? Does that remain outside? Is that yours?

Mr. Desrosiers: Yes, it's our train.

Mr. Gordon: So, that will remain outside?

Mr. Desrosiers: Yes. It's on the top there. We could place it inside. I just have it outside there.

Mr. Gordon: Also, will ice cream be served outside on the tables?

Atty. Ricker: I think that it is now.

Mr. Gullledge: It has been.

Mr. Gordon: It has been?

Mr. Gullledge: It has been for five or six years.

Atty. Ricker: I think that it has been. That's the Eve's business.

Mr. Gordon: I know. It's good ice cream.

Mr. Gullledge: Well, buy more. We just spent a lot of money on a soft serve machine.

Atty. Ricker: My experience driving by there is that they have people sit at the tables outside.

Mr. Gordon: Okay. If you do decide that you're going to have parties outside, would you be willing to put a fence.

Mr. Desrosiers: Oh, definitely.

Mr. Gordon: Because, as Mr. Ricker said, it's a busy highway and the kids are generally under twelve, aren't they, the ones that you have parties for?

Mr. Desrosiers: Yes.

Mr. Gordon: They have a mind of their own no matter what we all say. So, if there is anything to be outside, I would encourage a fence. I'm done.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

The decision of the board is on the following page.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals Unanimously voted to grant the appeal of Wake Realty, LLC, 149 Memorial Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the sale and rental of merchandise relating to the amusement and entertainment industry and to teach magic and to conduct private parties in association therewith upon property located at 149 Memorial Drive.

The subject premises is situated along the easterly side of Memorial Drive approximately one half mile north of the Route 20 interchange and is located within the Limited Industrial District. Its northerly side lot line coincides with the district boundary line

separating it from the Rural B District and the direct abutter to that side of the site is the First Baptist Church. There are several contiguous parcels to its south that collectively form the Memorial Business Park with the various buildings therein occupied by a mix of office, commercial and industrial tenants. The opposite side of Memorial Drive is zoned residential. There have been several new homes recently constructed along its frontage as well as within the Hyde Farms subdivision located diagonally opposite the subject site.

This property was originally developed by way of a variance issued in 1983 to allow its use for the teaching of arts and crafts and the retail sale of related materials. Subsequent to that initial granting, further relief was issued to its owners to allow the expansion of the original building and to permit other non-industrial activities to be conducted there from, including the preparation and sale of food products and the occupancy of part of the building as a residence. In reviewing those decisions, the board noted that there are several features impacting this site that precluded its use for industrial purposes such as its topography, ledge conditions and the lack of public water and sewer services to support such development. Accordingly, the board found that, due to these conditions, the literal application of the minimum terms of the Zoning Bylaw to this property would impose a substantial hardship to its owners and the aforementioned relief was thereby provided.

Upon review of Wake Realty's appeal, the board found that the conduct of the various commercial activities from this site during the past 25 years has not created any condition which has adversely impacted the welfare of either the general public or area residents. They also noted the use of part of building for food service and as a residence will continue and that the proposed use of the remainder of the structure by Mr. and Mrs. Desrosiers would not materially depart from its previous use relative to the arts and crafts business. They concurred with the previous findings that this site is not suitable for industrial use, that the literal imposition of the terms of the bylaw imposes a substantial hardship to its owners and that a partial change in its use for the rental of merchandise and conducting private parties for children would not significantly depart from the intent of the bylaw. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following:

1. All of the children's parties shall be conducted within the building.
2. There shall be no more than 2 amusement devices, inflatable rides, games or similar apparatus displayed outside of the building at any one time. Such devices or items shall not be located within 50 ft. of the edge of Memorial Drive, shall be greater than 12 ft. in height or be displayed overnight upon the premises.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 810 Boston Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 4 Carruth Drive, Northborough, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 810 Boston Tpke. as a children's recreation facility and to conduct private parties and special occasions in association therewith. The subject premises is described on the Shrewsbury Assessor's Tax Plate 35 as Plot 25-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Mr. Chan: Can we request a short delay? We would be last. Our attorney is in the meeting next door.

Mr. Rosen: Sure.

Mr. Gordon: Is it Marshall Gould?

Mr. Chan: Yes.

Mr. Rosen: Yes, we can move to the next hearing, sure.

Mr. Rosen re-opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2005.

Atty. Gould: We do have something we would like to pass out to everybody up front so that would hopefully have more information.

(Atty. Gould presented the materials to the board members.)

And allow me, if I may, I am Marshall Gould. I am the attorney for the applicants. We have Tin Chan and Kim Huban here, husband and wife. They are currently residents of Northborough, but they have lived in Shrewsbury, Westborough and Alabama. They will describe a little bit about their business and they will tell you a little bit about themselves shortly.

In the package that we have passed out tonight, I just want you to be aware you have an article that was in *The Wall Street Journal* about the type of business that throwing a kid's party has become. That is what this is all about. The remaining information that you have is about business and franchises called Pump It Up. There are several pieces of information. There is a single sheet that says grand opening that refers to one that recently opened in Peabody, Massachusetts. There is also a little pamphlet that opens up into two pages that is actually from the franchise. That has a few pictures showing

various locations and talks a little bit about what it is. We will get into this. Probably the most important here for you to peruse either tonight or at your convenience is a multi-page handout that's in here that you may want to look at tonight. It has various pictures of different locations, both the exterior and the interior. There is an interior site plan which has been incorporated for our particular site in there and then there are various questions and answers that I think we will, during our presentation, actually answer for you so I don't think it will be necessary for you to read it but if you want to during the presentation please feel free to do so.

I'm sure that everybody's already read the application but I'd like to just quickly go through it. They are looking for this business in the rear, what would be the southwest corner of the property at 810 Boston Turnpike. This building, as is shown on one of the pages near the very end, already is the home of Apple Spice restaurant that some of you are aware of because it was here approximately 4 to 5 months ago, I believe, for a variance. Also, the Office of Attorney Rod St. Pierre and a business known as Office Environments. The rear of the building right now is completely empty. What we would be doing is taking the most rear corner of the property as shown on a page just several pages before the very end. It's a scale of the building and it shows about how much we'll be using. This is on our application, by the way, as opposed to the handouts that I've given you. Do you all have applications or not? You know what; I thought that all of you would have it. I do have extra copies. I apologize. I'll hand some of these out.

(Atty. Gould presented the extra copies to the board members.)

Mr. Alarie: There are a couple in the folder Mr. Rosen.

Atty. Gould: I ask you to go through two of them at a time if you wouldn't mind then. Here's a copy of the application. Several pages from the very back of that, I apologize I thought that all of you would get a copy of the application, near the back of that is a building layout and it shows exactly which part of the building, but if everybody can see this I can sort of hold it up here. It's a page that looks like this. Okay? It's a page or two before that, towards the back.

Mr. Gordon: Mr. Gould, are there posts in the building?

Mr. Chan: Yes, there are. There are columns. Do you mean columns?

Mr. Gordon: Could you identify yourself so that she can get your name?

Mr. Chan: Oh, yes.

Atty. Gould: Tin Chan.

Mr. Chan: Tin Chan and addressing the question, are there columns. There are columns in the building. There definitely are. You can see them; they're little specks in the layout like where it says "lease area", you can see two columns above the "e" and "a" in lease and then one below the "r" and "e" in "area".

Mr. Gordon: Okay.

Atty. Gould: Pretty hard to see, but the answer is, yes, there are columns.

Mr. Gordon: Okay. That's the simple answer. Okay, thank you.

Atty. Gould: All right. After a meeting with the Building Inspector, Mr. Alarie, we determined that in order to have a business such as this, it is allowed in a commercial area but we face a very real and practical problem, two real and practical problems. One is that the commercial areas in Town are such an expense that this business would not be able to survive. The more important issue, even if they were to raise their prices, is this business needs a minimum ceiling height of 18-feet. Most of your retail spaces do not have 18-foot ceilings unless you were to go to a Walmart or a Home Depot or something like that. So, that's the real reason why the great majority of these franchisees are located in industrial buildings. What I would just like to point out to you with respect to the franchise is that there are over 200 similar facilities as they are looking to open or franchised in 27 states. They are either open or scheduled to open and all but 7 are located in the type of building that we're talking about here. The other 7 might be located in either a stand-alone building or in retail areas.

The variance is needed since this use would be allowed, and according to Ron Alarie, it's classified as amusement and recreation, commercially but not in an industrial area. The building that we are located in or hope to locate in, as you see, is already used sort of commercial, office and restaurant. It's already a mixed use. The space in the rear of the building has been empty for quite some time. It has not attracted tenants for an industrial use and in fact we believe that this use is more conducive to the other tenants than would be an industrial use in the rear of the building. I've already indicated that one of the tenants at 810 Boston Turnpike Road is Apple Spice New England. In reading the minutes it appeared that nobody spoke up in opposition there. I don't know if anybody is here with questions about this, but we believe it's the type of business that if there are any questions we can answer them satisfactorily so that there would be no opposition.

In your package there is a parking plan. I actually met with Ron Alarie and we determined that the parking plan that was presented was a little bit vague so we had Thompson-Liston go out and do a compiled plan of the actual parking. We found that the parking there is such that there is absolutely no problem at all with the amount of parking that would be required. But, perhaps even more important than the required amount of parking, is to understand the nature of this business. About 90% of the events that take place here are going to be starting at 4:30 PM or after, Monday through Friday, and during the day on Saturday. And, on occasion, holidays and Sundays as well.

Mr. Chan: Sundays.

Atty. Gould: The great majority are birthday parties for children. As you can see by the floor plan layout, there are multiple rooms. Mr. Chan will actually explain to you the way the business works because it's not anything that I have seen or even heard of before. I have seen these at outdoor parties around pools and in fields and special class days at local schools, but I've never seen one indoors. I've learned a lot about them and it's pretty exciting. My wife who's been in the child nursery school business and teaching nursery school teachers heard about this and thought it was just a great idea.

she looked at the materials and was very impressed with the safety features that they offer. So, she has actually educated me on some of these issues.

I did on the second fully printed page of the application, my addendum, write out all the reasons why I believe we meet the legal reasons for a variance. I can quickly go over these, but they are in the application. The property itself although zoned limited industrial, is only two parcels removed from the commercial business district. Most of the parcels on Route 9 are commercially zoned or commercially used. The vast majority of those along the Route 9 corridor that were previously industrially zoned were rezoned in 2004. This site was omitted along with another building owned by the same people right next door. We understand that it was due to its then predominantly industrial and warehouse use although that's no longer the case with this particular building. I've already pointed out that there were no objections to the Apple Spice application and the nature of this business is that parents will bring children to the premises for play events such as birthday parties or other private parties. Usually they do so by carpool. Some of the parents do stick around and are there to watch. Usually, however, with slightly older children the parents will drop the kids off and they will return at a designated time for pickup. The average time might be two hours during which there might be an hour to an hour and a half of play time, a half an hour of some food, not prepared on the site. It's brought in either ice cream or cake or pizza or whatever. The applicant will describe the business plan to you to assure you of the safety and proper supervision of the children.

The hardship is pretty simple. The property is on Route 9, a largely commercial area. The space that's there is empty. They're having a hard time renting it out industrially. Some of the industrial uses would not be compatible with the uses that are in the front of the building. There is a lot of parking in the rear of the building as you see. We believe that this would be a better use of the building than having a lot of trucks come in and use the property. We are asking that they be permitted to operate between 9 A.M. and 10 P.M. for these parties, but that they be allowed a half an hour early to open up and get ready and another half an hour at the end to close up and clean up so we're asking that the hours of operation be 8:30 A.M. to 10:30 P.M. but with the real public hours being from 9 A.M. to 10 P.M.

Mr. Rosen: How many days a week would that be?

Atty. Gould: Seven.

Mr. Rosen: Seven days?

Atty. Gould: Yes. Although, again, we are told that Monday through Friday up until 4:30 P.M. there's very little demand other than during school vacation weeks and occasionally in the summer. But, even then, the weekends are still the most popular times.

Mr. Chan: Can I also point out, Tin Chan again, that we are only open by appointment. If there's no party, it's closed.

Mr. Gordon: I'd just like, before I forget, to respond to Attorney Gould's remarks about these two parcels of space. In the original plan for Route 9, it was planned that all of

Route 9 would become commercial because we felt this was the most proper use for Route 9 because it's a high traffic, mostly car route. The two owners, Mr. Cutler and Caldwell Banker people who own the other parcel, requested that their parcels be omitted and we acquiesced to their request when we were rezoning. Otherwise, this would be a commercial and allowed use. Am I correct Mr. Alarie?

Mr. Alarie: That's correct, Mr. Gordon.

Mr. Gordon: Thank you.

Atty. Gould: So, that is basically the end of the legalities of this. With your permission, I'd like to allow Mr. Chan to sort of talk to you about what the business is since I think probably none of us have ever seen anything like it.

Mr. Chan: Yes. Tin Chan. This is my wife, Kim Huban. A little bit about our backgrounds and then I'll go into the presentation. I grew up in Houston. I went to Deerfield Academy, Cornell University, University of Chicago MBA, then worked for an insurance company out in Worcester, a mutual fund in Boston and a couple of banks out in Alabama. My wife went to Notre Dame Academy, Cornell University, BC Law School, worked for the Attorney General in Boston, a bank as a legal counsel and private firms. We have three kids, 9, 7 and 4. We used to live in Westborough for four years, built a house and lived in Shrewsbury on Stoney Hill Road for four years behind Hebert's Candy Mansion and moved to Alabama for a couple of years and came back to Northborough. We looked in Shrewsbury, but I only had a week to look for a house and I couldn't get it done so we had to settle on something and it happened to be in Northborough, unfortunately.

Mr. Gordon: Mr. Gould will be unhappy to say you settled in Northborough.

Mr. Chan: As I mentioned, three kids and we're all in the sweet spot, 9, 7 and 4. I'll go into the formal part of the presentation. I'll go over four aspects. What is Pump It Up, how does it work, how does it benefit the constituents and participants and finally safety, which is very important.

First of all, "What is Pump It Up?" Pump It Up is a franchise featuring giant inflatables in a safe, fun, private and indoor facility. The primary activities cater towards birthday parties, but we also offer sporting events, church events and fundraisers. The staff runs the party reducing stress and effort which also enhances fun and the memories. This is a private facility. There is no mixing up of the space or the parties such as at Chuck E. Cheese or Roller Kingdom. The play takes place in safe, supervised arenas. There are currently 124 open. Two hundred franchisees have signed up, but only 124 are open. We're proposed to be the second one in New England, as Marshall mentioned. That covers, "What is it?"

I'll explain now, "How does it work?" The parents call up a few weeks in advance to schedule a party. The day of the party, the party attendants are assigned to the party. They greet the host and the guests. Usually the parents don't stay. They drop off their kids. In fact, they carpool. We used to do this in Alabama. We'd bring three kids in, dump them off, go eat dinner or lunch somewhere, or do some shopping. You usually

don't stay. The party attendants also collect permission waivers and they collect presents. Then, once all the attendees are seated, they watch a safety video for about five minutes which explains the equipment and the rules. Then, they go into a brightly colored arena for an hour and a half where they obviously jump on big inflatables and slides and bounce houses and so forth. The party attendants monitor in terms of safety with a whistle to make sure all the rules are obeyed and the equipment isn't abused. Then for another half hour they go to a party room where Marshall mentioned they celebrate with a cake and presents and the birthday child sits on a giant throne, an inflatable throne by the way. There's optional pizza, soda, goody bags and at the end the parents come and pick up from the hosting parent. The hosting parent does not leave until all of the kids are accounted for. In other words, nobody can come in and grab a kid. It does not happen. We've never lost one child. It doesn't happen that way. That explains," How it works?"

Now, I'll explain, "How does it benefit the constituents and participants?" There are three of them, the child, the parent and the Town of Shrewsbury. First of all the child, she can invite 25 of her best friends. The child's the center of attention. They can jump, bounce, yell and be a kid on six large inflatables, large, colorful inflatables. By the way, these kids are exercising which is kind of lost now a days with obesity and so forth. Next comes the parent, there's ease of scheduling. We are completely focused on nights and weekends and having parties. Unlike Chuck E. Cheese which is mainly food and Roller Kingdom, this is all we do. We are also weather independent. We also give them preprinted invitations so they can send out to their guests. They don't have to worry about writing anything. This is well-supervised fun. Party attendants do all the work. All the parents do is show up with the presents and the cake. There's no set up, no clean up. They just go, have fun and leave. We take care of the rest. Now comes the Town of Shrewsbury which I think is of primary interest. This is a family-oriented, community-oriented business. We are going to work closely with schools, national charities and sporting teams, fundraisers. This space has been empty for about a year, I think since July. Veng left and is gone. We're going to help out local businesses. When parents come and drop off their kids, they're looking for something to do. They're either going to go spend money, shop somewhere, or they're going to go eat somewhere. It's all derivative revenue for the surrounding businesses. We're also going to help out a local pizza contractor. We haven't chosen him yet, but they're going to get about \$10-12,000 in revenue monthly. We're going to generate 20-25 full-time and part-time jobs for high school and college students.

Mr. Gordon: I'm sorry. How many?

Mr. Chan: 20-25. There are no obnoxious by-products such as excessive noise, litter, dirty chemicals or power equipment used like forklifts and such. There's none of that going on here. That covers the benefits.

How about safety, which I think is on your mind? First of all, this is private. All the guests are known. You're inviting these people. So, don't invite strangers. Inflatables are our sole focus. Pump It Up is the market share leader. We use the safest manufacturer. There are extensive safety features to the equipment. There's netting, covers, mats, deflation features. Based on our operating history we utilize an A-rated insurer. I spoke with our Safety Officer. Apparently our injury rate or reported injury

rate is 16 out of 3 million kids. To give you a frame of reference, that's orders of magnitude safer than what you see outside. Orders of magnitude means 100 to 1,000 times safer than what you see out in carnivals. Additional safety features that I haven't mentioned are that rules for the equipment are posted next to the equipment, number of people on there, weight limits and so forth. The front desk is always manned. The door chimes when it opens. Obviously, we're not going to let any kids out unless they go with their parent. On the fire exits, the high decibel alarm sounds and obviously that's a no-no. The landlord has agreed that we will have five reserved spaces near the exit, the front door actually, for drop off and pick up only. So, they can actually drive up, drop off their kids and then they're gone. They don't have to park in a weird spot in the parking lot or anything. We're making it very easy for them to do this. That covers the safety.

As you see in the article from *The Wall Street Journal*, Pump It Up serves a growing market of busy parents looking for fun, safe and exciting new ways to celebrate their child's milestones. Since no commercially zoned buildings in Shrewsbury are viable for our business, we ask that you consider giving us this variance. Pump It Up is a family friendly business which will utilize vacant space, produce no obnoxious waste and generate derivative revenue for local businesses. Thank you.

Mr. Confalone: When you say that you're going to have 20-25 people working there, is that all at one time and how big, I mean, is this going to be 100 people at this party?

Mr. Chan: No, the 20-25 is total payroll which means not everyone is going to show up for a party. There're about 8. So, this is for backup, you know, kids say I've got a soccer practice or I've got something going on. We can't have just the number of people that are going to work one party and that's our payroll.

Mr. Confalone: All part-timers?

Mr. Chan: Exactly.

Atty. Gould: To further answer that if you look in the pamphlet "Franchisee Support System". In there, the floor plan is actually the floor plan for this site. It is not a general floor plan so it shows you that there are actually four separate party rooms, two large ones and two small ones. One of the things that has not been stated as a requirement that when all the kids and the parents who are there come in, they are first required to sit in a room with lots of chairs and benches and view a video.

Mr. Chan: You can actually see it. Sorry for interrupting. You can see the video in the bottom right hand picture. This is an example of the video viewing area.

Atty. Gould: That would be on the fourth page of that pamphlet.

Mr. Chan: These guys have it down to a science basically.

Atty. Gould: They see a video of what's allowed and what is not allowed and the parents are instructed. Because it's a video even the kids generally pay attention.

Mr. Rosen: Are there any other questions?

Mr. George: Is there a possibility of possibly having two or three parties at the same time?

Mr. Chan: Yes, this flow chart regarding the number of parties will handle two, one in each arena, and then one waiting or one in the party rooms. We cannot have more than three at one time because we need a half hour to clean up the party room. That's one stipulation with the franchisee or franchise headquarters is that you can't have dirty party rooms or dirty facilities because that turns off parents. They come see it like Roller Kingdom, it's filthy, then they leave. We cannot have that so that's why we cannot have more than three.

Mr. George: The people who are coming to the party are the one's who provide the food, beverages or do you provide that?

Mr. Chan: No, we provide sodas, bottled sodas, and they can bring in the cake, but we contract with the pizza contractor. They're not allowed to bring in pizza. They can't bring in anything but the cake.

Mr. George: So, all you provide is just pizza for these parties.

Mr. Chan: Yes.

Mr. Schaetzke: What about drinks?

Mr. Chan: Well, drinks too, but we can't do like peanut and jelly. We're worried about allergies. Pizza, you know, nobody's allergic to that as far as I know. Soda. No kids allergic to soda. No, but we do not allow the parents to bring in like you know hot dogs. That doesn't happen. There's no food prep on site. This is all just bring it in.

Mr. Schaetzke: What about ice cream?

Mr. Chan: Ice cream? We can provide that, like ice cream cakes.

Ms. Huban: Like Hoodsie cups.

Mr. Gordon: I have a couple of questions. You talk about parking spaces and that and that's great. I noticed that the bituminous asphalt on that upper area near the large door is in need of repair. Will the landlord be doing that? Because you're saying you're marking spaces and right now you could not mark spaces.

Mr. Chan: The landlord has agreed that we're going to be fixing up the parking lot. In addition to the...

Atty. Gould: By we do you mean you or the landlord?

Mr. Chan: Somebody's going to pay for it.

Mr. Gordon: But it is going to be repaired?

Mr. Chan: Yes.

Mr. Gordon: And lined?

Mr. Chan: Yes lined, which is important because in the winter...

Mr. Gordon: Okay. The entrance, is there going to be modification to the entrance, that side door?

Mr. Chan: Most of the Pump It Up's that we've seen are double doors; right now this one is a single door. We have to measure it and ask headquarters can we work with this? Sometimes if it's not going to work we're going to make it a double door on the side.

Mr. Gordon: You're going to have to have an ADA approved door so I think that's 42". Forty-two inches Ron?

Mr. Alarie: No, it's a 36" door.

Mr. Gordon: Thirty-six inches, okay.

Mr. Alarie: It's an AAD. They'll be subject to the Mass Regulations.

Mr. Gordon: Okay. Just as a curiosity matter, the franchisor, how much liability insurance do they require of you?

Mr. Chan: We're doing \$1 million and \$2 million which is also the state limit. That's what they require also.

Mr. Gordon: Okay.

Mr. Chan: By the way, we're also in contact with the state regulators regarding inflatables. We've spoken with friends up in Peabody; they've already gone through the process and gotten the proper licenses. Actually, he's pointed out to them that there are Moms and Pops out there that maybe have one inflatable that are not regulated. The state doesn't know about them. We're actually going to the state saying you know please we want to do everything we can to make sure we have all of our licenses.

Mr. Gordon: One other question on that regard. Would you have any objection to naming the Town of Shrewsbury in your certificate of insurance as their interest appears so that if your insurance were cancelled, the Town would have a 10-day notice?

Atty. Gould: We have no problem with that.

Mr. Rosen: My other question is would you have a problem if we were to condition that the parking lot be corrected as you stated?

Atty. Gould: No problem and with paved and lined spaces.

Mr. Rosen: Right, okay.

Mr. Gordon: I'm done.

Mr. George: I've Just one question about signage.

Atty. Gould: I was going to get to that. Go right ahead.

Mr. George: Where will the sign be located? Will there be one on the building and outside on Route 9?

Mr. Chan: We have a letter from Mr. Cutler stating that we can put a sign up. It will be on the northwest corner which is near the Transxenogen side. We'll also need directional signs because we don't want people driving in and wandering around looking for us. We'll probably stick one in the back where Veng had the hook right sign. I think it may be still there; I'm not sure. We're working with a sign vendor actually in Shrewsbury and we're going to put a nice sign up there kind of retail like with a metal face. It's lit so people know where we are. We do not want them to miss the turn.

Mr. Rosen: Do you anticipate needing a variance for a sign?

Atty. Gould: I learned subsequent to the filing of this application, literally yesterday, that they were working on the sign with Mr. Cutler, Doug Cutler, the principal. Unfortunately, they have been dealing with one of his assistants up until now and she would not allow there to be direct contact. They have learned, and Ron I look for input from you, I guess the by-law requires that the sign be 25' back from Route 9. The buildings that are along side, I don't know if it's both or just the one as you approach the building, has a sign that is it closer, a free standing sign that is closer. So, my clients asked me yesterday can we ask for the variance to have a sign closer. I said you're going to have to do a separate filing. So, I do want you to know we do plan on having a freestanding sign. We may be coming back to you for another variance to try to get it closer in line with the sign of the adjoining building, but yes, there is a free standing sign. We don't know whether we'll put it up right away or whether we will apply for a variance right away. We will make that decision. We needed the landlord's permission before we could do anything and he has just recently approved the sign. There will also be a sign in the back obviously saying Pump It Up and there will be promotional information inside.

Mr. Rosen: Okay.

Atty. Gould: One other thing I'd like to correct on the, not correct, but maybe clarify on the application that I did not totally understand when we applied here. In my application for the variance I do say on here that the maximum expected occupancy is 102 persons. I did that based on some reading from the franchise. What I learned is that that's the maximum expected average occupancy on a daily basis. But, the actual maximum at any one time is 120. So if you do go to incorporate a number we would ask that the maximum be 120 instead of 102. I apologize for any confusion created by that.

Mr. Gordon: Is this building sprinklered?

Mr. Alarie: Yes it is.

Mr. Gordon: Okay.

Atty. Gould: Thank you.

Mr. Gordon: Does this require the fire chief to sign off?

Mr. Alarie: We will be reviewing that. It will require not only the sprinkler system, but a fire protection signaling system, pull stations, horns and strobes, those types of life safety, devices.

Mr. Gordon: It's different from just being an industrial building?

Mr. Alarie: Oh sure. It's an assembled use versus a factory or industrial.

Mr. Gordon: Okay.

Atty. Gould: The franchisor has very strict rules of what they need to do as well that in some cases we believe are more strict than what Massachusetts actually requires.

Mr. Gordon: Is there lighting outside there? I think I only saw one light in the back.

Mr. Alarie: In the rear of the parking, I'm not sure.

Mr. Gordon: Where you've got kids, are you going to have lighting back there?

Atty. Gould: We will be sure from a safety point of view that there is enough lighting.

Mr. Gordon: I'd think for liability you'd want to have some.

Mr. Chan: There's a picture in the packet of the lot.

Atty. Gould: The last page of the application, I believe, right before the abutter's list.

Mr. Chan: You can see the little lights on the building.

Atty. Gould: You do see a couple of lights.

Mr. Gordon: Yeah, I saw that; that's why I was asking if you were going to have more lighting.

Mr. Chan: We would have more lighting on the side where actually the door is. See where the dumpster is; that's going to be our entrance.

Mr. Gordon: Is the dumpster going to remain there?

Mr. Chan: We hope not.

Atty. Gould: Not there. There will be a dumpster at the property, but not there.

Mr. Gordon: Okay. How long is your lease?

Mr. Chan: It's going to be a 10-year lease.

Atty. Gould: With options.

Mr. Rosen: Let's go back to my question. Other than the sign, you won't be coming back for any other variances?

Atty. Gould: We hope not.

Mr. Rosen: Okay.

Mr. Alarie: One question Mr. Chan, you mentioned that it was by reservation only. I'm looking at the brochure for this the Grand Opening and I see a pop in playtime. Could you expand on that a bit?

Mr. Chan: Yes, pop in playtime is primarily for the preschoolers. This is before the regular school ends, which is like 3:00 or 2:30 or something, maybe 1:00. Pop in playtime is designed as a marketing tool. It's not going to be a tremendous revenue generator. It's so that the mothers can come in with their preschool kids and have a playtime for an hour, hour and half, get to see the facility and then go on to their other activities.

Mr. Alarie: Okay, but not by prearrangement. It could be drive by.

Mr. Chan: Well, it's going to be, yes, it could be a drive by. If you know that we have pop in playtime all you do is call to make sure okay are you going to have it today, yes we are.

Mr. Alarie: Okay.

Mr. Rosen: But, it's not open all the time for that.

Mr. Chan: No, actually we're restricting this to at most 10 hours a week and actually headquarters doesn't want it to be more than a few hours because it's not a revenue generator. It's only to get the word out.

Mr. George: So your exact time of operation during the course of a day would be?

Mr. Chan: As Marshall mentioned, it would be 9:00 A.M. to 10:00 P.M. but if there was no party and there's no open play it's closed because we want to treat payroll as a variable cost. It's not a fixed cost.

Atty. Gould: By the way, both of the people to my left, both the husband and the wife, are going to be actively involved. This is not just an investment that they are buying and

hiring people. You heard their qualifications. You've got a lawyer and an MBA and they're actually going to be hands on running this business which I was pretty impressed with.

Mr. Rosen: Anyone else? No. And since no one is in attendance other than our alternate, who I'm sure has no questions, we'll take it under advisement and notify you of our decision.

Atty. Gould: Thank you very much.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals Unanimously voted to grant the appeal of Tin Y. Chan and Kimberly A. Huban, d/b/a Pump It Up of Shrewsbury, 4 Carruth Drive, Northborough, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 810 Boston Tpke. as a children's recreation facility and to conduct private parties and special occasions in association therewith.

Upon review of this appeal, the board noted that, although the subject premises is located within a Limited Industrial District, it is occupied for multiple purposes, including office use, warehousing of goods and for commercial food preparation with an ancillary 28 seat café. The café was permitted by way of variance issued by this board in January of 2005. They further noted that the Route 9 corridor is predominately commercial in nature and that, except for two small areas, its length was rezoned to promote additional commercial development in 2003. Portions of this building have remained vacant for the past several years as it is not ideally sited or designed for true industrial use thereby creating an undue hardship to its owner. As they concluded in the relief provided last year, the limited use of a portion of this building for children's recreational and social gatherings would compliment the general character of many of the other properties fronting along this section of Route 9 and that such a use would not create any condition which would adversely impact the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following;

1. That pavement within that portion of the site accommodating the off-street parking associated with the proposed business shall be repaired and the parking spaces lined as shown on the plan accompanying the appellants' Form of Appeal. Lighting shall be installed within this area to provide sufficient illumination for night time use.
2. Business hours of operation shall be limited to those hours between 8:30 A. M. and 10:30 P. M., Sunday though Saturday.
3. A maximum of 120 children shall occupy the area leased by the appellants at any one time.

Vote

Mr. Rosen	Yes
Mr. George	Yes

Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes

PUBLIC HEARING: Matthew T. Smith, 2-4 Olive Ave., Shrewsbury, MA

PURPOSE: To hear the appeal of Matthew T. Smith, 2-4 Olive Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 2-4 Olive Ave. for garage activities. The subject premises is described on the Shrewsbury Assessor's Tax Plate 52 as Plot 118 and Tax Plate 58 as Plots 15 and 16-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Alfred C. Confalone, Dale W. Schaetzke, and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on April 24, 2006 and May 1, 2006.

Atty. Ricker: Thank you Mr. Chairman and members of the board. Again, for the record my name is Richard Ricker. I'm an attorney practicing at 11 Maple Avenue here in Shrewsbury. Seated to my right is Matthew Smith who is the principal of New England Trim which operates a business in Mr. Bouvier's building directly next door to this particular garage.

The site that we're talking about is on the application. I would note that plot number 118 is included on the application. I would suggest to the board that that's somewhat of a misnomer because on plot 118 is a new garage that was constructed by Mr. Smith over the last year or so?

Mr. Smith: About the last two or three months, that's correct.

Atty. Ricker: Over the last six months or so. That is not the subject of this request. That new garage is to the rear. That would be specifically for his personal vehicles and his personal items having nothing to do with New England Trim. In fact, we would suggest to the board that perhaps in light of the fact that I think that there might be some misunderstanding because of the 118 being on the application itself that perhaps the board would consider, if you do grant this application, putting a restriction on that the rear garage building, which is closest to the neighborhood, cannot be used for any business purposes whatsoever. We would welcome that.

Mr. Gordon: So, all we're talking about plot 15?

Atty. Ricker: The highlighted garage to the front.

Mr. Rosen: Just this one here. So, the structure going up isn't part of this?

Atty. Ricker: That's correct. The structure that's going up is not part of this appeal.

Mr. Gordon: So, the only thing is lot 15?

Atty. Ricker: Lot 15. I don't know the background or the reasons why 118 was included in the application. I wasn't part of that particular portion of this proceeding. Mr. Smith does live in the house which is directly on the other side of this garage. From New England Trim you have the garage, then there's a house, a two-family house, right?

Mr. Smith: Right.

Atty. Ricker: That house abuts up to Olive Avenue. He does reside there. The new garage, again it's to the rear of that, is not part of this proposal.

Mr. Gordon: All that we're talking about is the lawn mower shop, as I would know it.

Atty. Ricker: Correct. This previously, I think, the Johnson family ran as a lawn mower sales and repair facility.

Mr. Gordon: It was Shrewsbury Lawn Mower.

Atty. Ricker: Right. That's the particular garage that we're talking about and only that particular garage. This is a Limited Business District also included within the Edgemere Overlay. I would suggest that although we're talking about a garage use what Mr. Smith does is he takes canvas and fabrics and installs them on components of vehicles. He also does canvass for boating and for boats. Basically, it's a fabric type of business, an upholstery fabric business and as such seems to me to be very close to a retail service establishment which would be in keeping with this particular zone in any event. However, the term garage also encompasses this type of use because you have vehicles that come onto the site and are either reupholstered or the roof is redone or a headliner in a car or things of that nature. With particular attention to this particular garage, this is a pre existing garage, as noted. It was previously used for the Shrewsbury Lawnmower business. I would suggest this to be similar in terms of the retail type of use that is not even as intensive as that because this particular garage use would be for specialty vehicles, the higher end vehicle which he needs to separate from the bulk of the business for New England Trim.

He purchased New England Trim from the previous owner, Harry Hopkins, probably about a year ago.

Mr. Smith: It was a year and a half ago.

Atty. Ricker: As such, obviously, as any young entrepreneur is interested in doing, has an interest in growing his business. Because his business has grown and because he has a particular interest in higher end vehicles, hot rods, things like that which do require specific upholstery and specific renovations. He wants to remove those types of vehicles from the main shop where they can't be bumped up against or can't be damaged and things like that. He'd also use this for storage for his fabrics and for various canvases and things like that that he would use for his business.

The lot size and shape here and its location and the layout of the buildings pose a particular and incidental hardship here. The building is setup as a garage. It faces Route

20. It is not suitable for any other type of use, I would submit, in terms of what a Limited Business Zone in the Edgemere Overlay is looking for, a small neighborhood business.

You have what is clearly a small neighborhood business here surrounded in the rear by his neighbors, many of whom are in back of me here. I'd like to think and I do believe that part of the misunderstanding here has been as a result of that 118 being included in the initial application process here. That's the reason why I have repeatedly clarified to make sure that we all understand that we're only talking about the front garage building, the one right up on Route 20.

I would suggest that this is a unique situation. You have this particular parcel, together with the Bourvier, building that is surrounded by the residences on Olive and Blackstone Streets. It is a particular little niche area there and thereby poses a unique situation. Again, he does have a business there. He wants to let the business grow. He wants to continue to be a good neighbor and he wants to not have any issues whatsoever therefore a restriction on the rear building would certainly be welcome and suggested. I would respectfully suggest that because of the nature of the business being a small business type of village business that it fits in with the bylaw and generally there would be no derogation from the bylaw nor, I would suggest, would there be any harm to the neighbors in terms of any kind of noise, traffic congestion or offense whatsoever. I would suggest respectfully that this fits where it is. It is a use which probably is less intensive than the previous business that was housed in this very building and I would ask you therefore to grant the variance. If you have any questions?

Mr. Rosen: What are the hours of operation that you're looking for?

Mr. Smith: eight thirty to five, Monday through Friday, Saturdays we're open nine to noon.

Mr. Confalone: Are you using this building currently, right now?

Mr. Smith: It's housing my own personal vehicles.

Atty. Ricker: He does have some overflow.

Mr. Smith: Sometimes I have had overrun and space limitations with the current existing building and shop where we simply don't have enough room to complete everything.

Atty. Ricker: He does intend to stay at the original location as well.

Mr. Confalone: Okay. You say you're going to be using this for specialty uses. Can you describe that a little bit?

Mr. Smith: More or less just specialty vehicles, not your daily driven vehicle that people just get in and use on a regular basis. This is somebody's pride and joy that they've taken time and effort to restore and try and improve the quality. I can't necessarily allow the general public to just be in and among it walking around various articles of boat canvas and frames and seats and things that we're going to be repairing regularly. There's too much of a cause for damage and that sort of thing.

Mr. Confalone: Are you just working on upholstery or are you painting?

Mr. Smith: We do interior and upholstery work and automotive and marine applications. Occasionally there's just slight trim paint work that's necessary but nothing that's considered body work or anything of that nature, no.

Mr. George: Are there any plans to modify the building at all?

Mr. Smith: Just to influence and change the look of it so it's not quite as rundown looking as it is currently. I mean, I would like to change the façade.

Atty. Ricker: A façade change.

Mr. Smith: Yes.

Atty. Ricker: The façade change would involve new doors and a new window.

Mr. George: How about storage outside this garage? Do you plan on having a dumpster out there?

Mr. Smith: There will be no additional dumpster, just using the dumpster that we have currently with New England Trim, that's it.

Mr. George: Okay. Now, is there any traffic that runs between this garage and the place that you're operating right now?

Mr. Smith: Just the other people that rent at 129 Hartford Turnpike, Mr. Bouvier's building.

Mr. George: All right. Is there any reason for them to be traveling between the proposed garage and your business?

Mr. Smith: Well, they do currently. I don't know if they need to. I don't know if just the necessity of circling the building is required or not for other business reasons. I don't know, necessarily, if that's the case but they have before and we typically have not had a problem. Sometimes there are so many things going on, you know, we tend to jockey vehicles around but other than that there wouldn't be any change to that.

Mr. George: So, you're going to be using this for, basically, storage? How many cars would be in there, one at a time, two, three?

Mr. Smith: Probably no more than a couple.

Mr. Rosen: Mr. Gordon?

Mr. Gordon: So, this is ancillary to your existing business?

Mr. Smith: That's correct.

Mr. Gordon: Okay, it's an ancillary building. When I walked in this building just before you bought it there was a garage area and then there was a fenced in area but when you walked through the walk-in door there was like a little show room area an office. Is that still in there or have you taken that out?

Mr. Smith: That I just changed just for space requirements. It really was kind of cluttering the amount of room that we had available just to store stuff currently.

Mr. Gordon: You live directly behind this; is that correct?

Mr. Smith: Yes, that's correct.

Mr. Gordon: When I went over there the other day facing the building to the right there were probably three 20 ft. boats and a car. It looked like somebody was working on canvas for the boats.

Mr. Smith: That's correct.

Mr. Gordon: That's happening now and that would continue to happen, is that correct, whether this was granted or not?

Mr. Smith: Yes. That's already my property there. It has been used by New England Trim since before I even owned the property.

Mr. Gordon: Mr. Bouvier's building is a multi-tenant building?

Atty. Ricker: Yes.

Mr. Gordon: Okay. There are several tenants so that's not going to change unless you buy it.

Atty. Ricker: He's not planning on either moving from Mr. Bouvier's building or making any changes whatsoever over there.

Mr. Gordon: I noticed that there's a zone change line right to the rear of 15.

Atty. Ricker: Yes.

Mr. Gordon: Okay. So, you're only staying in a Limited Business area.

Atty. Ricker: Right.

Mr. Gordon: You're not going anywhere else?

Atty. Ricker: That's correct.

Mr. Gordon: So, anything that's not residential in the residential area would require a use variance which I don't think this board would be prone to grant.

Atty. Ricker: Right. Again, we would certainly welcome a restriction on that garage.

Mr. Gordon: We're not hearing that building.

Atty. Ricker: Right.

Mr. Gordon: We're not hearing that building. That building doesn't exist. That was just a curiosity question; I'm sorry.

Mr. Alarie: Mr. Gordon, that's not a zone line that goes through that parcel 118.

Mr. Gordon: Yes.

Atty. Ricker: That's the plate, I think.

Mr. Alarie: That's a match line on the plates.

Mr. Gordon: Okay.

Mr. Alarie: You can see a little bit to the rear of that...

Mr. Gordon: Where's the zone line?

Atty. Ricker: To the rear of that.

Mr. Alarie: You can see to the right-hand side of the page you see the Residence B and then the Limited Business line.

Atty. Ricker: Which is at the junction of Olive and Blackstone.

Mr. Alarie: It goes through right at the point where Olive Ave. meets Blackstone. It's that far back.

Mr. Rosen: The Limited Business goes that far back?

Mr. Alarie: It goes that far back.

Mr. Rosen: Okay.

Mr. Alarie: This property is entirely within that zone.

Mr. Gordon: Okay, so basically, 117, 116, 118 and 150, they're all in Limited Business, correct?

Mr. Alarie: That's correct.

Mr. Gordon: Okay.

Mr. Confalone: But garages are not allowed in there.

Mr. Gordon: Right.

Atty. Ricker: Correct. I'm sorry; I misunderstood the way that you were talking about it.

Mr. Gordon: Okay, I did too. This has been continually used as ancillary to the business?

Atty. Ricker: Yes.

Mr. Gordon: This is the continuation of a nonconforming use because I notice that you gave us information stating that there was a variance to get this done years ago. Is that correct?

Atty. Ricker: Yes, but they didn't put the building there.

Mr. Gordon: Yes. I'm all set.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Would you please state your name for the record.

Mr. Johnson: David Johnson, 13 Olive Ave. I have a couple of things that I want to address. I would like to hand this out to the board, if I may.

(Mr. Johnson presented written materials to the board.)

These were the letters that we have received over a specific period of time. One stating first that was a personal use on number 118. There seems to be some confusion on what that building is going to be used for. It's a very weird neighborhood in that probably four out of five people who live there do have their own small business. We're not anti business. The building in question that we keep referring to was our business. We have since moved to Worcester, no offence to the Shrewsbury people. But at any rate, the building went up on the back lot. Then we were able to get the next zoning letter. I just highlighted some of the copies.

Mr. Rosen: Are you talking about the building on 118, the new garage?

Mr. Johnson: One eighteen is the concern of everyone in this room because it's on the paperwork.

Mr. Rosen: I understand that but it's not what we're here for.

Mr. Johnson: Well, then I'm mistaken then because I'm going by what's on your zoning.

Mr. Alarie: Mr. Chairman, I could just make explanation. If you see, the ownership of that property consists of three plots on the tax maps.

Mr. Johnson: I've got the map.

That's how it's identified in the assessor's office. That property is identified as 2-4 Olive Ave. It's made up of three individual plots. That's how it's described on our assessor's records. It's only done for the purpose of describing the property that was subject of this appeal.

Mr. Johnson: Well, I guess our concern is that the garage that was put up is within the limits, I'm told, of being 15 ft. from the line. I know that we keep saying that we're not concerned about it but we've already been told a number of things and it's only 15 ft. from a residential neighborhood. The specialty cars that he talks about, I would be inclined to say, are called hotrods. We're not talking Model As here. From being a mechanic myself I know that once you work on something you want to hear it run. That letter that I had people sign I think is not admissible but it goes to show that we're not against Route 20. We live on Route 20. We're all former tow truck owners. We're a diner owner. I'm still a business owner. We don't have a problem with Route 20. We have a problem with the 118 drifting up. It's only a stone's throw away.

Mr. Rosen: I understand that. If there's any...

Mr. Johnson: I see this garage go up with 14 ft. doors and 12 ft doors and I hear of car lifts, I get concerned about private garages turning into...

Mr. Rosen: As soon as anything commercial happens all that you have to do is make a phone call.

Mr. Gordon: Well no, it is in a Limited Business area. That was what I was asking.

Mr. Alarie: A commercial garage is not permissible.

Mr. Gordon: It would require him coming here?

Mr. Confalone: Yes.

Mr. Gordon: He's volunteered to state that there would be nothing in there but his personal vehicles for his personal use, not for taking his friend's vehicle in there and repairing it?

Atty. Ricker: Correct.

Mr. Gordon: Is that correct?

Atty. Ricker: Correct.

Mr. Gordon: So, there would be nothing commercial in that building irrespective of...

Mr. Johnson: Oh, I don't have a problem with the personal use. I don't have a problem with the Smiths but I have a problem when I see the size of the garage he put up and then we talk about, it's worded, specialty vehicles. I know what a specialty vehicle is in his mind. I wish him well but at the same time, and we have a nice little neighborhood, I

know that it's not 8,000 sq. ft. houses in there, we all come home; we like our quiet. Once we get by Dunkin Donuts on Route 20 everything is good. We get in our little driveway and God bless us, we're home. But my concern, like I say, is the possibility of something growing on that lot because it's very close to the neighbors. You can see, I guess, everyone abutting this has signed that paper. We're not against the business on Route 20 but the house is 15, the little lawnmower shop is 16-1 and Bouvier's building is 16. We keep hearing that 15 is the lawnmower shop, it's not, and 118 is clearly in my sister's backyard.

Mr. Rosen: Anything that he would want to do commercially in 118 he would need to come again before the board for a variance for.

Mr. Confalone: It's not an allowed use. You can't do that.

Mr. Gordon: Well, why don't we take it one step further? If the applicant is willing to assert that it will not be anything but a personal use, let's have him do it. You volunteered it.

Atty. Ricker: We volunteered it, right.

Mr. Gordon: So, irrespective of the doors, you're guaranteeing that 118 is for personal use?

Atty. Ricker: I'm telling you as part of our request here tonight we're asking you to put a restriction on the new building to the rear on the same parcel which would restrict its use to only personal use with no business activities whatsoever.

Mr. Rosen: Does that satisfy your concerns?

Mr. George: What would be the personal use? What would that entail?

Atty. Ricker: He has his own...

Mr. George: That's what I think the neighbors are concerned about.

Atty. Ricker: He has a couple of specialty vehicles of his own that he works on and he shows and he's got his own pickup truck.

Mr. Smith: I have a couple of vehicles. I have my own personal tools. I mean, I work on my own stuff because I don't like other people working on my stuff. I mean, that's just my nature. That's why I work on so many other people's vehicles because they trust them to me. I mean, that's who I am; that's what I do. That's solely for the purpose of me doing my own thing back there and that's it. I mean, that's why we're trying to expand into the front building because I need more room for everybody else's. The back one is all my own; that's it.

Mr. Confalone: So, this is just maintenance on your own personal vehicles?

Mr. Smith: Yes, absolutely. I do everything myself.

Mr. Rosen: Would you state your name for the record again?

Mr. Johnson: Yes, David Johnson, 13 Olive Ave. The garage was originally put up as a personal garage. Then, on top of these doors that are 12 ft. high there seems to be like an apartment or a secondary living space with a sliding glass door and a terrace. What is that going to be used for? Is that going to be rented out? We're concerned about that also. There are some pictures there of it. This is not an average three-car garage. Like I said to Mr. Smith, I'm jealous. It's a beautiful thing but I just don't want, at 10:00 at night, hearing hot rods up and down the street.

Mr. Smith: I understand that. The area above the garage is going to be a workshop area for myself doing my own projects. That is solely it. As far as traffic on the street or anything, that's not going to have any inflection on that whatsoever.

Mr. Johnson: Nobody's going to be living in there?

Mr. Smith: No.

Mr. Rosen: State your name for the record please.

Atty. Forsley: My name's Leo Forsley of Worcester. I had the original petition by the people who are going for the appeal and the notice from the Town of Shrewsbury. Now I hear that we're dropping the lot 118 all together but you're leaving a restriction on it?

Mr. Gordon: We're dropping it. He's putting a restriction on it.

Mr. Rosen: One eighteen is not part of the application. The building on 118 is not...

Atty. Forsley: How long will the restriction last?

Atty. Ricker: As long as he uses the front building as a business.

Atty. Forsley: If he leaves it what happens to it?

Mr. Gordon: They'd have to come back for a change.

Atty. Ricker: It would be a change of use.

Atty. Forsley: A change of use.

Mr. Gordon: I don't think that he could get one.

Atty. Forsley: Excuse me, he has a permit for that building right now, I would assume?

Mr. Alarie: Not for that use, sir.

Mr. Gordon: For 118.

Mr. Alarie: Again, that building is not the subject of the appeal. He does have a permit; it's for a residential garage, yes.

Atty. Forsley: He does have a permit. Does that permit govern what happens in that area?

Mr. Alarie: Yes.

Atty. Forsley: Okay.

Mr. Alarie: It allows him to build a garage for residential use. What happens after that if there is anything that violates...

Atty. Forsley: How can you come and say okay, we're going to use it for commercial work if it's already residential?

Mr. Alarie: I think that the board is saying and Attorney Ricker is saying they've agreed to stipulate that that structure would not be used for any commercial repairs.

Atty. Forsley: Is that restriction binding, sir?

Mr. Alarie: It certainly would be if it's a condition of the board's decision.

Atty. Forsley: It's in their prerogative in doing so.

Mr. Rodolakis: I'm not voting on this so maybe I can clear it, shed some light on it. I think what you're willing to do Richard, I'm not trying to put words in your mouth, is that in the event that this garage is used for anything but anything that complies with the underlying zone in that district that will be, what, a material breach of the conditions of the variance that we're granting tonight and subject him to enforcement by Mr. Alarie?

Atty. Ricker: Either enforcement or whatever, revocation of his permit.

Mr. Rodolakis: Yes, okay.

Mr. Confalone: Even without the condition it's not permitted.

Mr. Alarie: Right.

Mr. Confalone: So, if he uses it for commercial use at any time all they have to do is report it to Mr. Alarie. He'll go down and investigate it.

Atty. Ricker: But I think what we're suggesting is that we're willing to link it.

Mr. Rosen: I understand that.

Atty. Ricker: It gives the town additional enforcement capability.

Atty. Forsley: Yes, but who's going to enforce it?

Mr. Gordon: The building inspector. Can I just make a comment and maybe a suggestion? If the confusion is lot 118, should or could the request for the variance be resubmitted for lots 15 and 16 and leave off 118 because 118 already has a permit?

Atty. Ricker: Actually, it's only for lot 16. It's only for lot 15.

Mr. Rosen: My only concern about doing that is then it removes the linkage. If we were just hearing it on 115 then we can't stipulate as an order of granting the variance that it could not be used.

Mr. Rodolakis: Right. I think notice went out in a broader sense so we can amend it right here at the hearing because anybody who has a complaint for the use of 118, I assume that's why everybody's here.

Atty. Forsley: One eighteen is stated on your notice.

Mr. Rodolakis: It refers to the tax map. That's why it's stated that way. But why don't we just say that the variance is granted only with respect to...

Mr. Rosen: Lot 15.

Mr. Rodolakis: And nothing concerning plot 118?

Atty. Ricker: Except the restriction.

Mr. Rodolakis: Okay.

Mr. Johnson: Isn't 16-1 the building in question? Fifteen is the house.

Atty. Forsley: Is the variance being submitted on the house too?

Mr. Gordon: No.

Mr. Johnson: Well, we keep hearing 15.

Mr. Rosen: Sixteen is where the garage is.

Mr. Confalone: Fifteen is the house?

Mr. Johnson: Fifteen is the house.

Atty. Ricker: I know this is asking a lot, but maybe Mr. Alarie's explanation of why all these parcels are on the application is relevant again because the issue keeps coming up.

Mr. Alarie: If you focus on the true plot plan for the property with all of its meets and bounds, you can see it's one contiguous property.

Mr. Rosen: It's one property composed of three lots?

Mr. Alarie: Correct. The assessing records for the property identify it as 2-4 Olive Ave., which consists of plate 52, plot 118 and plate 58, plots 15 and 16-1. That's only for identification purposes to the total property that was the subject of this hearing.

Atty. Ricker: Right, because these parcels merged.

Mr. Alarie: But again, the focus of the appeal is as written, that front building in their form of appeal, the former Shrewsbury Lawnmower Shop...

Mr. Rosen: Right, the front building. Does everyone understand that? One eighteen is not a party to this.

Mr. Johnson: I'm afraid I don't. I'm not a lawyer.

Mr. Rosen: Neither am I.

Mr. Johnson: But 16-1 is the lawnmower shop. We all decided that?

Mr. Rosen: Sixteen-one.

Mr. Johnson: You keep saying 15 and they keep saying 118.

Atty. Ricker: Fifteen is the house.

Mr. Johnson: I would think that this variance should be on 16-1 which nobody has a problem with.

Mr. Rosen: The variance is on 16-1, strictly, period.

Mr. Johnson: The paperwork doesn't say that.

Mr. Rosen: The paperwork can't say it because it's based on the tax map. It's three contiguous lots that are owned by a single person.

Mr. Johnson: I'm not a lawyer.

Mr. Rosen: Again, neither am I.

Mr. Alarie: One other piece of information, none of those lots independently can stand alone. Neither lot 15, 16-1 or 118 has sufficient frontage or area to satisfy the minimum requirements for zoning. Collectively, they do. Again, it's just for identification purposes as it's identified by the assessor's records.

Mr. Johnson: For my clarification, 16-1 is the little lawnmower shop that I call it, is what we're talking about.

Mr. Alarie: Without a doubt.

Mr. Johnson: Not 118 or 15?

Mr. Alarie: Without a doubt.

Mr. Johnson: One-eighteen is not going to be lived in and one-eighteen is not going to be used for commercial use.

Mr. Rosen: Correct.

Mr. Johnson: I'm a happy guy.

Mr. Confalone: I think that we're all on the same page.

Atty. Forsley: Will the board state that and let us know?

Mr. Rosen: Absolutely. That will be part of the decision.

Atty. Ricker: I apologize. I was talking about 15 because I look at this map and I don't see 16-1 labeled on it. That's why I kept on calling it 15.

Mr. Rosen: Does anyone else want to be heard on this petition?

Atty. Forsley: I'm sorry; I didn't hear you.

Mr. Rosen: Does anyone else need to be heard on this petition? State your name for the record please.

Mr. Bouvier: Joe Bouvier. What are we asking for a variance for?

Mr. Rosen: The lawnmower shop.

Mr. Bouvier: What do they want to do to the lawnmower shop?

Mr. Rosen: They want to operate a small business out of it.

Mr. Bouvier: Wasn't that already done prior?

Mr. Rosen: This is a different business.

Mr. Bouvier: Oh, you have to change it every time?

Mr. Rosen: Yes.

Mr. Bouvier: Oh, okay. Since it was zoned for business to start off with I didn't have any problem with it before. They had a variance before and I didn't have a problem with it. I said, what are they doing now?

Mr. Confalone: He's asking for it to be a garage. A garage is not permitted in this area.

Mr. Bouvier: Oh, okay.

Mr. Gordon: Mr. Bouvier, did you come back from Florida for this hearing?

Mr. Bouvier: No, I've been back a couple of weeks.

Atty. Forsley: Excuse me, I'm confused right now. What is the building going to be used for?

Atty. Ricker: For New England Trim.

Atty. Forsley: New England Trim?

Atty. Ricker: Yes.

Atty. Forsley: What's it use for now?

Atty. Ricker: A personal garage.

Mr. Smith: My own garage and storage.

Atty. Forsley: Oh.

Mr. Gordon: It's going to be an ancillary use to his existing business.

Atty. Forsley: He said in his petition that it will be annexed. Is that what he's doing?

Atty. Ricker: It's basically an annex.

Mr. Rosen: Are there any other questions or comments on this petition?

Atty. Forsley: Will we get a notice on what your variance reads?

Atty. Ricker: The building inspector will have a copy.

Mr. Rosen: It will be posted. The building inspector will have a copy.

Mr. Alarie: Notice goes out to all affected parties.

Mr. Rosen: Are there any other questions? Seeing no further comment, we'll take the matter under advisement and notify you of our decision.

Mr. Gordon: Excuse me. Sir, who are you representing, just so that we can clear that up?

Atty. Forsley: I represent Barbara Schmohl who owns the building across the street. I represent the Johnsons.

Mr. Gordon: Okay.

Atty. Forsley: Is that okay?

Mr. Gordon: Well yes, you just didn't say what your interest was.

Decision

On May 9, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Matthew T. Smith, 2-4 Olive Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 2-4 Olive Ave. for garage activities.

The subject premises is located within a Limited Business District and there are three buildings situated upon the property, one of which is a masonry block structure fronting on Route 20. This building was formerly used as a salesroom and repair shop for lawnmowers and similar equipment and is the subject of this appeal. The two other structures, a two-family dwelling in which the appellant resides and a detached garage which is ancillary to the residence, face the parcel's Olive Ave. frontage. Mr. Smith owns and operates New England Trim, which is located upon the adjacent lot to the east of his property. The primary nature of his business involves the installation of upholstery, canvas and similar fabrics onto motor vehicles and boats. He proposes to use the aforementioned masonry block building as an annex to his business for similar purposes.

Upon review of this appeal, the board found that the proposed use of the subject building will not be utilized for typical garage activities such as motor vehicle repairs, maintenance or auto body work, but will be used for very specific and limited purposes, basically involving specialty vehicles with the work performed more cosmetic in nature as opposed to mechanical. They noted that this building was constructed by way of variance and was formerly used for repair services and is designed more for semi-garage use rather than for retail sales. It was their opinion that, due to the nature of Mr. Smith's business, the condition of the existing building and its past use, the literal application of the applicable terms of the Zoning Bylaw would impose a hardship to the appellant in his attempt to utilize his property. They felt that the granting of the relief requested would not seriously depart from the intent of the bylaw and that its use for the aforementioned activities would neither create any condition that would adversely impact the welfare of the general public nor materially depart from the general character of other business along the Edgemere section of the Route 20 corridor, many of which are automotive related. It was, therefore, unanimously voted to grant the appeal subject to the following:

1. The subject building shall be used solely for those purposes as described in the appellant's presentation to the board.
2. The new wood-framed garage currently under construction upon the site facing Olive Ave. shall not be used for any commercial garage activities. It shall be used only in association with or ancillary to the use of the residence as enumerated in Mr. Smith's letter to his neighbors dated January 20, 2006.

Vote

Mr. Rosen	Yes
Mr. George	Yes

Mr. Gordon	Yes
Mr. Confalone	Yes
Mr. Schaetzke	Yes